

**‘RACING’ RACIAL PROFILING RESEARCH: COMPLICATING THE
‘TRUST OF RIGHTS AND POWERS’
THROUGH AN ANALYSIS OF RACIAL PROFILING NARRATIVES**

A Dissertation

by

KAREN SUZANNE GLOVER

Submitted to the Office of Graduate Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

August 2007

Major Subject: Sociology

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ABSTRACT

‘Racing’ Racial Profiling Research: Complicating the ‘Trust of Rights and Powers’

Through an Analysis of Racial Profiling Narratives. (August 2007)

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Racial profiling, in the context of the current study, concerns the association of racial and/or ethnic status with criminality and manifests in the traffic stop. The body of knowledge now available on racial profiling has documented well the incidence of numerical disparity of traffic stops between racial groups, with motorists of color subject to intrusion by the state at greater rates than White motorists (Withrow 2005). Criminologists then turned to ‘perception’-based research to examine what makes an individual ‘perceive’ he has been racially profiled. I argue that the second wave of research is dominated by a narrow survey approach, concentrates on the microlevel police-citizen encounter, and lacks a theoretical grounding, particularly in race theory. The ‘perception’ orientation, I argue, discursively diminishes the experiences of communities of color in their experiences with the state. The current study re-examines the two main components of the ‘perception’ based research -- personal and vicarious experience with the police – to extend our understanding of the meanings behind personal and vicarious encounters with law enforcement.

The current qualitative study, based on more than two dozen in-depth interviews, informs our understanding of racial profiling on a number of levels. Citizenship emerges as a dominant narrative from my respondents, thus extending the effects of the racialized traffic stop effects beyond the particularistic police-minority relationship and into larger legal and political realms not anticipated in the current literature. I find that the ‘shadow citizenship’ identity imposed by the state through racializing and criminalizing processes like racial profiling is regularly rejected by people of color through various forms of resistance to racial oppression. A third important finding concerns the complication of ‘vicarious experiences.’ My respondents indicate that they do not summarily adopt views about the police but contextualize their own experiences within understandings of collective memory. Finally, because I engage racial profiling through the theoretical perspectives of Collins, DuBois, Feagin, and Foucault, among others, and frame my overall research approach using critical race theory, the salience of *race* in racial profiling processes is undeniably evident, contrary to the racial vacuum dominating the current literature.

DEDICATION

To Amadou Diallo

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It is the best and worst of research agendas, as I consider racial profiling part of my life's work yet welcome its demise. My thanks to the people I met in the field. I hope our collaborative effort here is as meaningful as your words suggest it need be. To all who helped me get here, my heartfelt gratitude: For Bilaye Benibo, for plucking me from academic obscurity and making me see the scholar in myself. For Mark Fossett, for encouraging me during the REU program and always. For Eduardo Bonilla-Silva, for guiding me in early efforts. To my dissertation committee, who turned out to be a wonderful mix of folks who honored my independence yet were always available when called upon. Specifically, for Joe Feagin, for making your way here and sharing your enormous wealth of knowledge, generosity, and kind spirit. I still wonder at my fortune that you came to A&M when you did. I hope my work reflects well on your commitment to justice. For Sarah Gatson, who inspired me in class with your vast intellect and way of looking at the world. For Holly Foster, for making me believe I might actually be a criminologist one day, and for your steady, calming temperament. For Marco Portales, who always knew the right thing to say and with few words, made things meaningful.

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TABLE OF CONTENTS

CHAPTER		Page
I	INTRODUCTION.....	1
	Importance of Studying Racial Profiling.....	2
	The State of Affairs with Racial Profiling Research....	4
	Reframing the Research.....	6
	Methodological Approach of the Current Study.....	8
	Outline of Remaining Chapters.....	10
II	CONCEPTUAL-THEORETICAL FRAMEWORK.....	13
	Systemic and Experiential Racism.....	14
	Panopticonism.....	19
	Theorizing on Panopticonism.....	20
	Defining Panopticonism and Its Effects.....	22
	Double-Consciousness.....	25
	Other Theoretical Guides.....	28
III	LITERATURE REVIEW.....	30
	Racial Disparity in Traffic Stops.....	31
	‘Perception’ Studies.....	33
	Limitations of Current Approaches to Understanding Racial Profiling.....	34
	Examples to Orient Limitations.....	38
	Chapter Summation.....	47
IV	METHODOLOGY.....	49
	A Call for the Narrative and Race Theory.....	49
	Politics of Research.....	52
	Rare Examples of Race Theory in Current Literature	53
	Approaching Racial Profiling Qualitatively.....	56
	Limitation of the Current Study.....	59
	Method.....	60
V	CITIZENSHIP, RESISTANCE, AND PERSONAL EXPERIENCES.....	64

CHAPTER		Page
	Contextualizing the Current Literature on Personal Experiences.....	64
	Citizenship and Its Limitations.....	65
	Resistance to Shadow Citizenship.....	66
	Contextualizing Citizenship, Shadow Citizenship, and Resistance.....	70
	Procedural Justice Framework.....	76
	The Traffic Stop in Context.....	78
	Silent No More: The Voices of Citizenship, Shadow Citizenship, and Resistance.....	79
	Chapter Summation.....	106
VI	PANOPTICONISM, ‘THE LESSON,’ AND VICARIOUS EXPERIENCE.....	109
	Double-Consciousness.....	109
	Vicarious Experience Discourse in the Current Literature.....	110
	Collective Memory and ‘The Lesson’.....	112
	Silent No More: The Voices of Panopticonism, Double-Consciousness, and ‘The Lesson’.....	114
	Chapter Summation.....	148
VII	CONCLUSION.....	151
	Quantitative Insight.....	151
	A Qualitative Approach.....	152
	Citizenship and Shadow Citizenship.....	153
	Resistance to Shadow Citizenship.....	154
	‘Perception’ Studies.....	154
	Double-Consciousness Insight.....	155
	Vicarious Experience Revisited.....	156
	Bringing in Race Theory.....	158
	Legal Consciousness.....	159
	Limitations of the Current Study.....	159
	Further Research – Policy Implications.....	160
	In Conclusion.....	162
	REFERENCES.....	164
	APPENDIX.....	173

Page

VITA.....	176
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CHAPTER I

INTRODUCTION

No country can grow and develop where there is no order, and a society without equal justice will self-destruct. There must be law and that law must be tempered by justice. And that justice must be for all! (Melvin P. Sikes)

I'm as American as anybody else. Red, white, and blue – that's all I bleed. For them to come up and question me as far as that -- I'm not a citizen of the United States. I'm disenfranchised! (Hector)

The first quotation above, written by Melvin P. Sikes (1975) as a prelude to his book *The Administration of Injustice*, stands today as a set of guiding principles for the criminal justice system. Yet more than 30 years have passed since Sikes penned that thought to frame his treatise addressing the harsh conditions facing people of color as citizens, particularly in their everyday encounters with the state via the police officer. The second quotation above is an assessment of the current state of affairs from Hector, a respondent in my study on racial profiling.

In the contemporary post-Civil Rights era, the traffic stop is a main component of the injustice which both Sikes and Hector lament. This seemingly mundane and benign encounter is one that is often actually a racializing and criminalizing event that my respondents contextualize within a broader citizenship framework. I propose the concept of 'shadow citizenship' to describe the experience many people of color endure in relations with the state.

This dissertation follows the style of the *American Sociological Review*.

The ideology of the ‘liberty and justice’ rights frame emanating from Constitutional promises of equal treatment under the law represents the full citizen. Cast off from this idealized imagery is the *shadow citizen* who experiences fewer rights and protections in practice. The enduring ‘shadow citizenship’ realm many people of color experience explains not only the color of the American criminal justice system today, but pressing alienation and discrimination across many social arenas.

Importance of Studying Racial Profiling

Communities of color have historically voiced opposition to focused criminalization carried out by the state. Racial profiling processes are defined here as the use of racial and/or ethnic status as the determinant factor in decisions to stop motorists either in the absence of indications of criminality or in determining who to enforce law against, and have emerged over the last several years as a main focus of the public discourse about how race works in the late 20th and early 21st centuries. The opposition incorporates an identification with the justice and liberty rights frame invoked by Walker (2000) as well as a rejection of the justice and liberty frame as it operates in practice as mere ideology. As noted by Feagin (2006:32), people of color have “...honed a well-developed view of emancipation from oppression and thus, of a deeper meaning of the age-old ideals of freedom and justice.” The current study offers an original contribution to our understanding of racial profiling through a critical race framework that qualitatively examines the lived experiences of people of color who have encountered racial profiling.

Racial profiling is a social phenomenon worthy of examination because it works to maintain the “racial state” (Omi and Winant 1994). The terms *race*, *ethnicity*, *minority*, and *people/communities of color* that orient this document all refer to social constructs of the ‘Other’ that order American society. Bonilla-Silva (1997:472) views these groupings as “...the effect of racial practices of opposition (‘we’ versus ‘them’ at the economic, political, social, and ideological levels).” *Racialization* is a fundamental aspect of the traffic stop, and refers to processes in the racial state that implicate race into situations that do not inherently involve ‘race.’ West and Zimmerman’s (1987) and West and Fenstermaker’s (1995) work on how gender orients social interactions is useful when considering this social process. Extending their work to race, *racialization* involves “...creating difference...that [is] not natural, essential, or biological” (West and Zimmerman 1987:137). This “difference” is imposed by dominant Whites and unavoidable by communities of color because of the racial hierarchy ordering American society. Although the ideas of race and processes of racialization are socially constructed, they “...take on a life of their own” and organize the social world in meaningful ways (Bonilla-Silva 1997:475). They become and are maintained as social structure.

A related concept used in the current study is *criminalization*. One way of understanding criminalization is that it involves a similar process as that of race of imposing identity upon individuals and groups; in this case, a criminal identity. While the association of physical attributes with criminality has a long racial (and gender, and class) history, racial profiling is articulated as a particularly pressing social problem for

our times and thus may be viewed as somewhat distinct and more narrow an issue than the conventional concept of stereotyping (Gross and Livingston 2002; Johnson 2001; Volpp 2002).

Racial profiling, as defined in the opening paragraph, is both a racializing event and a criminalizing event. The traffic stop itself occurs because of suspicion of criminality due to the constructed association between racial minority status and crime in the United States. For people of color, the racialized traffic stop is potential entrée into the criminal justice system – a system that itself is a reflection of racialized policing and whose after affects have serious political consequences (Uggen and Manza 2002). The various dimensions of racial profiling processes make it an important topic to address, yet very little is known about the specific effects of racial profiling on communities of color. With the reframing of profiling in the post-September 11 world, examination of the racialization and criminalization processes inherent to racial profiling becomes more urgent.

The State of Affairs with Racial Profiling Research

Social science has been slow to examine the dissent from social actors who experience racial profiling. The issue has only emerged as a serious topic of examination in the last decade. Primarily, the criminology scholarship addresses racial profiling in three ways. First, research considers the actual practice and incidence of racial profiling. Early studies were prompted by lawsuits initiated by minority motorists in New Jersey and Maryland in the 1980s. Lamberth (1998) is credited with the first study on the incidence of racial profiling, with a multitude of studies that followed

supporting his original conclusion that minority motorists are disproportionately stopped by law enforcement relative to their standing in the general motoring population (see Withrow 2005). This ‘first wave’ of research also includes studies concerning decision-making processes of law enforcement in regards to the traffic stop (Dunham, Alpert, Stroshine, and Bennett 2005; Parker, MacDonald, Alpert, Smith, and Piquero 2004; Tomaskovic-Devey, Mason and Zingraff 2004).

The current study is prompted by the ‘second wave’ of research on racial profiling. These ‘perception’-based studies attempt to examine what makes an individual believe they have been subjected to a racialized traffic stop. It is particularly important to address this tendency in the current literature. The focus on ‘perceptions,’ from a critical perspective, positions these studies in an ‘it’s in your head’ framework, as demonstrated by the frequent discursive polarization of ‘perceptions’ with ‘reality.’ As evident in other race relations realms, efforts to minimize minority experiences in the racial state is common, both in scholarly undertakings and in the general public domain (see Moore, forthcoming, for an example of racialized situations and responses to racialized situations in the legal realm, as well as Bonilla-Silva and Baiocchi (2001) for a critique of scholarship on racial matters). In the academic realm itself, this explains the rise of critical-oriented scholarship such as critical race theory. An increasing number of scholars of color in the academy voiced dissatisfaction and indeed opposition to social science portrayals of racial matters, culminating in various critical-oriented works that have especially turned scholarship in the legal realm on its head.

Further, public policy makers who base decisions on the more recent research may focus their efforts on the ‘perceptions’ of the citizens and less on the practices of law enforcement that orient the first wave of racial profiling research. For example, the former may involve training to be more respectful during encounters, as discussed in the ‘procedural justice’ framework examined later in the current study. Briefly, the ‘procedural justice’ framework suggests assessments of justice during encounters with the state center around respect and fair treatment by authorities, regardless of the outcome of a given encounter (for example, whether one received a citation or not). The latter concerns the actual decision to make a traffic stop on a motorist. Thus, these orientations represent, importantly, two different aspects/stages of a traffic stop. Indeed, the ‘first wave’ of racial profiling research led to a series of local, state, and federal legislative efforts to both collect data on and prohibit racial profiling (see Ward 2002).

Reframing the Research

It is difficult to explain why the racial profiling literature, after documenting well and with various and improving quantitative methodology the ‘social fact’ of overrepresentation of people of color in traffic stops, transitioned from a literature concerned with a very numbers-oriented approach to racial profiling to one focused on ‘perceptions’ of being profiled. In other words, in the face of such evidence demonstrating a strong racial component to citizen-police traffic encounters, why turn to a social psychological examination of what makes someone believe they have been racially targeted? To a large degree, the overrepresentation data is based upon police

documentation of traffic stop demographics, not on ‘subjective’ data gathered from those stopped.

One perspective on this turn in the research builds on Omi and Winant’s (1994) notions of *rearticulation* and the *racial project*. Rearticulation refers to both overt and covert efforts by the state and other dominating social institutions to shift, absorb, and/or refigure a given social issue to better serve their ‘interests.’ Hence, the move in the racial profiling literature to one concerned with perceptions may reflect a desire to rearticulate racial profiling within the academy, or within public policy, or indeed among the arbiters of cultural commentary. This may be partially explained by the sometimes symbiotic relationship those studying the police have with the police, as well as with the general demographic profile of police studies researchers and criminologists more generally. The racial project, as used as an explanatory concept here, operates as a mechanism to explain or interpret racial dynamics that ultimately maintain the racial status quo. Thus, this perplexing turn to issues of perception in the racial profiling research – though not a conspired event in the criminology community – deflects attention from law enforcement (in the current analysis, the racial state), and moves the emphasis to the citizen.

As noted earlier, my goal is to examine racial profiling, an issue currently at the fore of the criminology research agenda, from a race perspective. This work was prompted in large part by the current body of research and its limitations in addressing the racial profiling phenomenon from this orientation. Instead, most of the research on racial profiling addresses the matter from a ‘nuts and bolts’ approach and, in general,

only superficially touches on the racial component I argue is fundamental to understanding profiling processes. For instance, a common complaint of mine after attending sessions at criminology meetings where racial profiling is the topic at hand is that little, if any, discussion occurs about race or racism. Indeed, at the 2006 American Criminology Society conference, a leading racial profiling scholar told a packed house that the research community was being ‘quite responsible’ in not discussing the now well-documented phenomenon of minority overrepresentation in traffic stops as a racial matter.

Methodological Approach of the Current Study

The current study views racial profiling as well as the study of racial profiling to be worthy of this examination due to the issues described above. Next, I outline the methodology I employ to understand the lived experiences of those who have been racially profiled.

As mentioned above, the dominant methodological approach to understanding racial profiling processes is survey-based. This approach comprises what is now a large body of work documenting the practice of racial profiling. To a lesser extent, quantitative work sheds light on the perspective of citizens in these encounters, with ‘perception’-based research relying mainly on survey instruments to get at beliefs about racial profiling. The two primary issues examined to determine citizens’ perceptions of racial profiling are their personal experience with law enforcement and vicarious experiences (sometimes referred to as *indirect* experience, see Brunson 2007) via friends, family, and the media.

This dissertation examines these two aspects of racial profiling qualitatively to extend our understanding of why these issues are so determinant in racial profiling concerns. Qualitative work is an underutilized approach in criminology. In the racial profiling literature specifically, I see the need to center the voices of social actors who experience racial profiling, as the meanings and contextualizations of racialization and criminalization inherent in the phenomenon is a vastly needed component to our understanding of racial profiling. A promising development in this regard is the 2007 edition of *Criminology & Public Policy* that engages and calls for more contextualization of our current understandings of racial profiling processes, reflecting the timeliness of the current study.

Specifically, I engage in-depth interviews with more than two dozen respondents to inquire about various aspects of their experiences with racial profiling and racialization processes with the criminal justice system more generally. As discussed more thoroughly in Chapter IV on methodology, the in-depth interview centers what is often historically silenced voices and thus broadens our understanding of the social world.

The current study also introduces a much-needed theoretical component to the racial profiling literature. These theoretical approaches are unique to the literature as they primarily engage the issue from a critical race theory perspective, one grounded in the experiential nature of racial oppression, in contrast to the mainstream criminology approach that defines the current research. I attempt to ‘race’ the racial profiling research by centering the phenomenon within a racial oppression context (Twine and

Warren 2000). To this end, I engage the work of Foucault (1977) and DuBois (1986) to frame racial profiling as an issue of power, hyper-surveillance, and marginalization within the larger theoretical context of Feagin's (2006) systemic racism theory. Another theoretical engagement involves the legal consciousness framework that considers how individuals make sense of encounters with the legal system (Marshall and Barclay 2003). Finally, because this research examines the issue of racial profiling as one about racial oppression, I examine resistance to racial profiling – an unexamined yet critical component of understanding how racialization and criminalization processes affect communities of color. While primarily incorporating Collins's work on identity and resistance, I rely on other understandings of resistance as well (see Haenfler 2004; Scott 1987).

The limitations of the current study include its inability to contextualize findings within a similar, specifically qualitative, literature because of the lack of scholarship available currently. Some readers may find the number of respondents to be small. However, while a more sizable sample would permit me to do more comparative analysis, for example, the heart of qualitative work is not determined by quantity. As with all of the issues discussed in this introductory chapter, I further develop the ideas and concerns in the remaining chapters. First, however, I provide a brief synopsis of the work that follows.

Outline of Remaining Chapters

Chapter II is the theoretical-conceptual framework. A large portion of the chapter centers on Feagin and DuBois's concepts of systemic racism and double-

consciousness, respectively. It also includes discussion of critical race theory. Because critical race theory involves a methodological approach to engaging scholarship, it is more thoroughly engaged in Chapter IV on methodology. Chapter IV also details the ‘nuts and bolts’ of my interview process, including issues about gaining access to communities of color. The literature review of Chapter III provides background on the racial profiling literature, and because the current study is prompted by the current trends in that literature and guided by a critical race framework, my review is necessarily a targeted criticism of the limitations I see in the current literature. Chapters V and VI are the data chapters where my respondents’ historically silenced voices are presented and analyzed. I contextualize Chapter V in response to the ‘personal experience’ variable in the ‘perception’ studies by highlighting issues of citizenship and resistance to racial profiling by my respondents. This chapter includes my extension of Collins’s (2000) work on resistance to oppression. In response to the ‘vicarious experience’ variable in ‘perception’ research, in Chapter VI I engage Foucault’s notion of the panopticon (a social control mechanism placing citizens under constant surveillance) and Russell’s (1998) notion of “the lesson.” Chapter VII, the conclusion chapter, brings together the conceptual frameworks of Collins, DuBois, Feagin, Foucault, and Russell, as well as conceptual understandings on racialized situations/institutions from Moore (forthcoming), and Marshall and Barclay (2003) on legal consciousness. The conclusion chapter includes the general guiding orientation of critical race theory as well. This final chapter offers another brief summation of limitations, including the specific issue of how a White female researcher can access and develop rapport with (primarily) males of

color when it comes to racial profiling. It ends with a call for more qualitative work in criminology in general, and with racial profiling specifically, and addresses public policy implications before laying out a few future research projects inspired by the current undertaking. I now turn to the conceptual-theoretical framework.

CHAPTER II

CONCEPTUAL-THEORETICAL FRAMEWORK

In this chapter, I discuss a theoretical basis for my contextualization of racial profiling. Specifically, I engage two frameworks regarding the experiential quality of racism – the everydayness of negotiation of the color line – and one framework on state social control processes. Feagin’s work on systemic racism and DuBois’s concept of double-consciousness provide the race theory component while Foucault’s conception of the panopticon underpins the hyper-surveillance and state social control analysis. Each of these ideas is discussed further in the remainder of this chapter. Further, I engage Collins’s work on resistance briefly in this chapter, with a more detailed treatment of it in the data analysis contained in Chapter V. While Collins’s work is important to my analysis because of her conceptualization of resisting ‘controlling’ identities and the less obvious manifestations of resistance, I briefly engage other treatments of resistance. From a legal studies perspective, I am also interested in the concept of legal consciousness. As described by Marshall and Barclay (2003:617), legal consciousness concerns the ways in which ordinary people situate the “texture of law” in “everyday existence.” It demonstrates how the legal *organization* of society, a component of which is the police force, shapes “...the meaning that people make of their experiences” (Marshall and Barclay 2003:619). The legal consciousness framework is appropriate because it is concerned with the experiential quality of legal experiences, a focus very much a part of the current study (Nielson 2000). I primarily engage the legal consciousness framework in the conclusion chapter of the current study. I end the

current chapter with a brief nod to critical race theory, an approach more thoroughly engaged in Chapter IV on methodology. The main three frameworks -- systemic racism, double-consciousness, and panopticonism – are discussed in detail next.

Systemic and Experiential Racism

At the beginning of his book *Systemic Racism: A Theory of Oppression*, Feagin (2006:2) asks “What are the distinctive social worlds that have been created by racial oppression over several centuries?” I am interested in understanding the “distinct social world” of racial profiling processes and effects. Feagin (2006:2) argues that because racism is more than “...racial prejudice and individual bigotry...[but] material, social, and ideological reality that is well-embedded in major U.S. institutions,” it is *systemic* in U.S. society. Provocatively, the author (Feagin 2006:7) argues that “all racial-ethnic relationships and events” need be contextualized within this systemic understanding of racial oppression. Most contemporary analyses of racism fail to address this fundamental nature of racial oppression in U.S. society. Instead mainstream approaches to understanding racial conflict concentrate on individual-level, prejudice-driven motivations.

Feagin (2006:16) organizes U.S. society as a system of complex networks and institutional practices that “imbed” racial oppression yet are open to changes when required by social pressures. Specifically with the issue of racialized policing, the transition from slave patrols (the overt) to contemporary racial profiling processes (more covert) provides a good example of how racial systems and practices adopt to changing

social climates. Though the mechanisms of oppression may change, the costs of racial oppression are many and include a continuing “rage over injustice” (Feagin 2006:20).

The situation of racial profiling processes within the systemic racism realm comes in part because this theory suggests that a “recurring exercise of coercive power” is necessary for the operation of racial oppression (Feagin 2006:21). The regularity of racial profiling as a social phenomenon – in the form of minority overrepresentation in traffic stops and associated processes -- is now well-documented as discussed in Chapter IV. Systemic racism is also appropriate as a theoretical guide because of its emphasis on the “separating, distancing, and alienating” relations that emerge under racial systems (Feagin 2006:21). As examined in the two data chapters of the current study, this sense of alienation is evident in many of the narratives particularly when discussing issues of citizenship (Chapter V) and what is referred to as ‘the lesson’ (Chapter VI).

White Racial Frame and Resistance

Feagin introduces the “white racial frame” as a theoretical tool for explicating systemic racism. He defines this concept as “an organized set of racialized ideas, stereotypes, emotions, and inclinations to discriminate...[that] generates...recurring and habitual discriminatory actions” manifesting in the routine activities of social institutions (Feagin 2006:25). Clearly, racial profiling processes emerge from these racialized ideas, stereotypes and inclinations at social control via the legal realm.

Readers familiar with Feagin’s works know his orientation that any discussion of racial oppression is not complete until an accompanying discussion of resistance to oppression occurs. Thus, systemic racism theory incorporates a component of resistance

to further understand the experiences of those oppressed. His initial discussion of resistance as a countering force to racial oppression underscores the adaptive nature of resistance as the formation of oppression has changed over the centuries. In Chapter V of the current study, resistance is a central topic of examination. In conjunction with Patricia Hill Collins's work in *Black Feminist Thought* (2000) in which she examines various formations of resistance, my examination of the experiences of people of color with racial profiling follows Feagin's assertion that oppressive practices are met with resistance. A major component of the resistance that emerges from my respondents' narratives concerns their engagement of the citizenship realm even in the face of what I refer to as 'shadow citizenship.' This is in line with Feagin's (2006:33).assertion that "...the very people whose racially oppressed condition had been guaranteed by white leaders in several provisions of the founding Constitution were those who most forthrightly asserted the high ideals of equality, liberty, and justice..."

Collective Memory, 'The Lesson,' and Lived Experience

Another theoretical alignment with systemic racism theory I engage in the current study is a variation of what Feagin and others refer to as "collective memory." As discussed in Chapter I, my intent is to critically examine one main focus in the current racial profiling literature – that is, the influence of vicarious experience in shaping 'perceptions' of racial profiling. As discussed more thoroughly in Chapter VI, I use Russell's (1998) conception of "the lesson" to explain the informational exchange process where generally elder people of color pass on critical insight to younger generations about how to negotiate in a racial state. Collective memory is a more

expansive phenomenon than “the lesson,” as it encompasses a myriad of historical contexts for understanding experiences of communities of color. The “lesson,” as engaged here, is targeted more toward specific coercive encounters with the state. From a critical race perspective, there is a subtext in the current literature’s focus on ‘vicarious experience. For example, ‘vicarious experience’ includes what leading racial profiling scholars have described as an “amplified” affect – read *exaggerated* affect -- on personal experience (Weitzer and Tuch 2006:19). This characterization differs from more critical formulations such as Feagin’s or Russell’s where they view the passing on of information as crucial to community negotiation of the color line. As stated by Feagin:

One of the mechanisms important to the social reproduction of systemic racism, as well as for the reproduction of resistance, is collective memory...[when people of color] discuss or allude to the importance of young people being taught about white-on-black oppression. Older black Americans recount or imply the importance of collective memories indicating lessons, for young and old, on what past oppression was like and on how to respond when it crashes into an individual’s or a family’s life in the present (2006:277).

I make a theoretical distinction between the current literature’s ‘vicarious experience’ and what more critical insight offers and conceptualizes as ‘collective memory’ or ‘the lesson.’ The latter views these processes as social incorporation of a “...fundamental stock of knowledge needed to cope in everyday situations: the ways to move about and survive in hostile social worlds” (Bolton and Feagin 2004:32). Again, ‘the lesson,’ as it is used in the current study, refers to advice and admonition about encounters with law enforcement and reflects a more complex understanding of the informational exchange about law enforcement in communities of color than is portrayed in the body of work now available.

Another connection to the systemic racism framework is seen in Feagin's recent collaboration with Bolton to examine the experiences of Black police officers where the authors assert "An array of major structural and ideological forces have operated to relegate black people to secondary citizenship status in the United States, and that one significant set of such forces is rooted in the origin, development, and institutionalization of policing (2004:13)." The 'secondary citizenship status' emerges from being subject to racialization and criminalization processes such as racial profiling and is a similar concept to what I portray as a 'shadow citizenship' realm of experience for many people of color when dealing with the state via the police officer. This *lived experience* is another main component of the systemic racism framework. Consequently, examining the narratives and discourses that arise from those subjected to racism is crucial.

Interestingly, Bolton and Feagin (2004:27) frame their introduction to experiential racism – a component of the larger systemic racism realm concerned with the "routine, recurring, and everyday reality" of racial oppression – around the traditional neglect by social science in listening to and examining voices of color in regards to their day to day encounters with racism. The current study, as discussed in Chapter I, also critiques the current literature on racial profiling for primarily studying racial profiling from a 'top down' and survey-based approach whereas a narrative-based, subaltern perspective allows this much-needed experiential quality of examination to come through. As evident in Chapter V where my respondents make the larger connection to citizen-state concerns upon encountering the discriminatory 'act' of a racialized traffic stop, Bolton and Feagin describe how "[d]iscrimination is more than

an activity of individuals, for individual acts of discrimination fit into, and are shaped by, the larger and encompassing racialized in-groups, networks, organizations, and institutions. Human actors operate within structural boundaries and make decisions within structural contexts, supports, and constraints (2004:28).”

Theoretically, this framework then is in line with my respondents’ contextualization of racial profiling within larger social realms. In other words, it is not simply the act of the traffic stop but what the act represents. The experience is “...interpreted on the basis of knowledge gained from previous events as well as from the collective knowledge...” (Bolton and Feagin 2004:32).

In sum, Feagin’s work is useful for a theoretical guide because it addresses the fundamental nature of racial oppression as it occurs in the everyday, thus making the experiential quality of narrative examinations like the current study crucial to understanding racial oppression. Further, Feagin’s concentration on resistance to racial oppression helps frame, along with Collins’s and others’ work, modes of opposition that emerge in the face of racial oppression.

Panopticonism

Introduced to Foucault’s *Discipline & Punish: The Birth of the Prison* fairly late in my graduate school coursework, I was immediately taken by the text. The idea to theoretically connect my interest in racial profiling processes to Foucault’s concept of the social control mechanism of the *panopticon* was a defining moment in my research process. There is more to Foucault’s panopticon concept than I engage in the current study, which I recognize as a limitation of this work.

Theorizing on Panopticonism

As a budding sociologist who is very interested in epistemology and the sociology of knowledge, I am compelled to write a few words about the link I personally made to racial profiling as I believe it strengthens the understanding of my theoretical link between the panopticon and racial profiling.

I experienced a police abuse of force incident about 20 years ago. I was in a precinct, being taken back to a cell, and invoked my own citizenship status (see Chapter V) by demanding the officers escorting me and a friend to the cell inform us what was happening. From the time we were picked up, to the time we were brought to the cell, no one had formally addressed us, informed us of procedures, let us make ‘the call’ to get assistance, nor arrested us. Eyeing the cell a few steps ahead and increasingly frightened, I asked again – what is happening to us? Though verbally demanding at that point, I was physically passive. Yet, while at least one officer grabbed and held my arms from behind, the officer in front of me turned and cold-cocked, closed-fist punched me in the face then did it again before turning around as if in a slow-motion ballet closing in on the cell.

Upon returning home the next day, my mother took Polaroid pictures of my emergent black eye and swollen and bluing cheek. We sent these photos, along with a letter of complaint, to the police department in the town where the incident happened. Approximately six weeks later, a letter arrived informing us that the incident had been investigated and was found not to have occurred.

Some dozen years later, during my final semester as an undergraduate in 1999, the verdict for the Amadou Diallo case was announced. All four New York City police officers were acquitted of wrongdoing in the fatal shooting of Diallo, an unarmed street entrepreneur who had immigrated to the United States from West Africa. The young man was fired upon 41 times in the vestibule of his apartment building, with 19 of the bullets striking him (Brown 2002). I wrote my final undergraduate paper on this verdict. At that point, having undoubtedly mentally blocked it out for so many years, I started to remember my own abuse of force incident with the state.

Becoming more empowered through the unexpected educational opportunities I was encountering, and more and more interested in how the academic world examined the issues of inequality and injustice that had oriented my life pursuits, I learned about Amadou Diallo and Amadou Diallos. I made the theoretical connection to racial profiling (via panopticonism) in communities of color and my own experience of being ‘out of place’ and having the state abuse its power with me. The lack of accountability was the worst part.

In the course of my research for the verdict paper, I learned that the small experience with the state that I endured was not a rare experience for young males of color. This is not to say that abuse of force by law enforcement is common among communities of color but rather an attempt to highlight the anomalous nature of my encounter -- that of a young, White woman at the time – in contrast to the experience of young men of color. It was then a fairly easy step to consider racial profiling processes (issues dominating the news in the decade prior to Sept. 11) as a precursor to abuse of

force incidents in communities of color. My research focus, however, is not on abuse of force but on the more general idea of how the state may engage in abuse of authority, not be held accountable, and, specifically here, on the effects on those who experience it.

All of this is background for my theoretical engagement of Foucault's panopticon -- an issue of hyper-surveillance and state social control -- to racial profiling processes. The panopticon idea has been used as a guiding concept in various realms ranging from the medical and educational realms that Foucault himself applied the concept to, to more diverse areas such as 'call center' (Bain and Taylor 2000), and women's body imagery in sports (Duncan 1994) contexts. At least one fairly extensive review of other engagements of his theory suggests that the panopticon concept is best understood (more accurately, less misunderstood) in the larger context of Foucauldian thought, including his lectures (in French) that those of us less scholarly and less Foucault-directed are not inclined to seek out (Elmer 2003). On its own, however, his conception of panopticonism stands out as a defining moment in the author's work, as well as a defining moment in state surveillance studies, and I hope to lay out well its appropriateness to racial profiling processes.

Defining Panopticonism and Its Effects

What exactly is the panopticon? The panopticon is a social control mechanism introduced by social theorist Jeremy Bentham in the 1800s to address prison reform efforts. The basic construction is of a circular prison complex with a tower in the center of the building. Inmates reside in the cells that face outward to the central tower and, because of architectural design that includes backlighting of each cell, must assume that

the guards in the tower are monitoring them as they cannot know for certain that at any given moment they are indeed surveilled. Consequently, according to Foucault, a self-monitoring and self-conscious effect occurs with the inmates.

Foucault expanded on Bentham's concept in *Discipline & Punish* (1977) where he examines various incarnations of social discipline and punishment over time, beginning with a gruesome and well-detailed account of a public execution in mid-1700s France. He focuses on the 'spectacle' of this overt form of social control and its orientation to the body. The introduction of the panopticon itself represents a transition in society from one concerned with the body to one concerned with surveillance and power that, to some extent, binds the mind through coercion. Foucault explains "...the major effect of the panopticon: to induce in the inmate a sense of conscious and permanent visibility that assures the automatic functioning of power...the surveillance is permanent in its effects, even if it is discontinuous in its action; that the perfection of power should tend to render its actual exercise unnecessary (1977:201)." In parsing this statement, the connection between the "permanent visibility" of race as a marker of criminality (evidenced by racial profiling processes) and the permanent visibility induced by the panopticon effect becomes evident. Foucault remarks that the main purpose of the panopticon is to make the individual conscious and aware of their status/visibility. By doing so, an "automatic" functioning of power ensues as the individual – here, the citizen of color – is reminded of the power relationship they are in with the state. Further, once permanent monitoring, surveillance, and patrolling are initiated and instilled in individual experiences, its actual consistent occurrence need not

be present for the sense of permanent visibility to operate. The individual is thereafter mindful of power dynamics. Clearly, the panopticon is a mechanism of social control.

As noted earlier, Foucault saw the shift to what he termed “discipline power” of the state as a movement away from more overt forms of social control and indeed, he suggests, coercion of the mind may induce more social harm than traditional social control efforts. He states “...there is a shift in the point of application of this power: it is no longer the body, with the ritual play of excessive pains, spectacular brandings in the ritual of the public execution; it is the mind or rather a play of representations and signs circulating discreetly but necessarily and evidently in the minds of all. It is no longer the body, but the soul...(1977:101).

While racial profiling does concern ‘the body’ in a practical sense that individuals get stopped and detained, I more specifically link the above quote to the ‘consciousness’ of being marked as criminal in the wake of a racialized traffic stop. Thus, when my respondents remark on the how racial profiling is ‘part of the experience’ of being a person of color, they are referring to this consciousness that emerges from criminalizing processes. I consider the move from ‘the body’ to the “mind/soul” as representative of a move from more overt forms of racial oppression to more covert formations in the modern era. In the following excerpt, Foucault’s description of how the state’s disciplinary power operates is useful:

Disciplinary power...is exercised through its invisibility; at the same time it imposes on those whom it subjects a principle of compulsory visibility. In discipline, it is the subjects who have to be seen. Their visibility assures the hold of the power that is exercised over them. It is the fact of being constantly seen, of being able always to be seen, that maintains the disciplined individual in his subjection. And the examination is the technique by which power, instead of

emitting the signs of its potency, instead of imposing its mark on its subjects, holds them in a mechanism of objectification (1977:187).

In sum, the engagement of panopticonism as a theoretical fix for my examination of racial profiling and its effects on people of color specifically concerns the consciousness that arises from social control practices. Surveillance is about identity. The processes of the panopticon, as with the processes of racial profiling, imposes an identity that suggests, among other issues, guilt and wrong-doing. With racial profiling, the imposition of a criminal identity specifically tied to racial and ethnic status illuminates the power of the racial state.

While both Feagin and Foucault's theoretical context focuses on the omnipresence of domination from social systems and the related awareness of this oppression, the next theoretical framework I draw upon to make sense of the effects of racial profiling on communities of color focuses on awareness from a DuBoisian viewpoint referred to as *double-consciousness*.

Double-Consciousness

Another guide I engage to theorize about racial profiling processes is DuBois's concept of double-consciousness and its emphasis on the citizen realm. In the opening to *The Souls of Black Folks*, DuBois (1986:363) states: "Between me and the other world there is ever an unasked question . . . *how does it feel to be a problem?*" His opening remarks point to a concern over the microscopic examination by the dominant group of communities of color and their perceived 'pathology.' DuBois also refers to the Black experience and the various effects of racialization that is of concern in the current study. Behind the "ever unasked" question is a bitter truth: discovering the effects of racial

oppression on communities of color is a difficult realization for “the other world” inhabited by Whites. The literature on racial profiling to date falls into that state of “ever unasked” that DuBois addresses in *The Souls of Black Folks* as the voice of social actors who experience the phenomenon are rarely examined. Indeed, part of my orientation with the current study is to illuminate the “double-consciousness” experience through examination of the narratives of those who experience it.

Double-consciousness refers to a sense of “two-ness” experienced by Blacks and other people of color when confronted with white supremacy and its accompanying social control and alienation. As described by DuBois (1986:364): “One ever feels his two-ness, -- an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.” This concept, transferable to people of color more generally, emerges as a dominant theme from my respondents. Specifically, Chapter V examines the citizenship realm as it concerns racialization and criminalization processes evident in racial profiling. Many of my respondents reflect on DuBois’s notion of double-consciousness and the limits imposed upon them by the state because of racial and ethnic status. That is, they have an awareness of these constraints of citizenship and an understanding of the disconnect the constraints imply about American society. Clearly, there is a tension that exists between the identity of being a person of color and (full) citizenship identity. The “two-ness” described in DuBois’s work helps explain why communities of color are some of the strongest defenders of the rights and protections of citizenship while simultaneously experiencing marginalization in what I refer to as

shadow citizenship. This classic construction of living in both worlds is very much a part of the contemporary experience of people of color. Strides that have been made in the years following DuBois's 1897 treatise may have dulled the demarcation of citizenship that existed in DuBois's day, but those strides remain outweighed by the restricted *substance* of citizenship for communities of color.

DuBois's notion of experiencing two worlds – one of minority and one of shadow citizen – and the “double-consciousness” from the experience is depicted in its complexity in a recent work on DuBois's theoretical usefulness in contemporary sociology:

DuBois used the term [double-consciousness] to indicate that between the white world and the black world, U.S. blacks must not internalize whites' attitudes but instead cultivate a reflexive perspective on *Twoness*. That is, blacks can embrace their *Twoness* but need to maintain a critical perspective on the moral impoverishment of racism and the hypocrisy of racist practices. *Twoness*, in this sense, potentially either is debilitating or is the key to synthetic emancipation

. . . . DuBois is suggesting that whites have limited understanding of black people, whereas the latter have a profound understanding of the cultural frameworks and the institutions that whites employ to oppress them. Blacks bear the burden of *Twoness*, but whites are deluded by how they position themselves in their invented hierarchy...privilege constricts perceptions and social conscience (Blau and Brown 2001:220).

Blau and Brown's analysis of DuBois's work points to the critical nature of his approach to understanding the complexity of the color line in its various manifestations. The ability to discern the resistance (that “dogged strength”) that accompanies racial oppression is a trademark of “double-consciousness.” The engagement of issues of resistance in the current study, discussed in Chapter V, is thus theoretically served by DuBois's understanding of racial oppression.

Other Theoretical Guides

As a theoretical guide in the conclusion chapter, legal consciousness (Marshall and Barclay 2003) is discussed more thoroughly to complement the understanding of ‘consciousness’ of which DuBois writes. The two remaining theoretical frameworks engaged in the current study, the general thrust of critical race theory (see Crenshaw et al 1995), and Collins’s work on resistance from *Black Feminist Thought* (2000), are discussed more thoroughly in Chapter IV and Chapter V respectively. Briefly, Collins’s work on resistance is useful because it examines resistance to oppression as encompassing both direct forms of resistance and what she calls “strategies for group survival” that manifest in less-obvious ways. Simple awareness or consciousness of oppression, for example, would be an indirect form of resistance according to her framework. While Collins’s work underlies most of my analysis on resistance, I rely on other treatments that privilege both “personal” and “political” modes of resistance as well (Haenfler 2004).

Finally, I would like to discuss at this point the relevance of the current study to classic criminological concepts of stigma and labeling. Goffman classically defined stigma as a “deeply discrediting” and “tainted, discounted” status (Goffman 1963:3). Stigma is a mainstay of classic sociological thought, especially in social psychology, and is frequently engaged to address issues of deviance and thus, by extension, is also conceptually useful in criminological analyses. Its obvious connection to racial profiling processes is the identity imposed and generated from the stigmatized status; in this

instance, a criminal identity resulting from the ‘stigma’ of racial status. As such, Goffman (1963) conceptualized stigma within the broad realm of stereotyping processes.

An associated idea is labeling theory (Shoemaker 2005). Labeling theory has various formations, most of which center on how given behavior by an individual becomes designated as deviant or criminal by society and results in negative labeling (or stigmatization) of that individual. For some theorists, such as Edwin Lemert, the label or societal reaction leads to additional criminality. Some theorists, such as Howard Becker, focus on the application of the label itself as it relates to issues of power and dominance in society. As with stigma, labeling involves the imposition of an undesirable identity, and reflects the criminalization evident in racial profiling processes of concern to the current study.

Stigma and labeling theory, though not engaged directly in the work to follow, provide a classic theoretical foundation for my analysis of racial profiling. Link and Phelan (2001) offer a powerful conceptualization of the concepts in their attempt to demonstrate the far-reaching effects of these concepts. They suggest that stigma exists when aspects of “labeling, stereotyping, separating, status loss, and discrimination co-occur in a power situation” (Link and Phelan 2001:382). As such, these classic concepts help orient the current study firmly in the criminology realm. With the theoretical groundwork set, I now turn to a critically-oriented view of the current literature.

CHAPTER III

LITERATURE REVIEW

Research on the police-minority relationship primarily addresses civilian attitudes toward the police (Hagan and Albonetti 1982; Parker, Onyekwuluje and Murty 1995; Pate and Fridell 1993; Russell 1998; Tuch and Weitzer 1997). These studies show a racial differential in attitudes toward the police, with minorities being less supportive of the police than Whites. As evident in the public discourse following a high-profile incident of police abuse of force, for example, racial profiling concerns voiced by people of color emerge as a key factor in explaining this disparity. The traffic stop is potentially the first step into the criminal justice system, and thus its effects are far-reaching and worthy of continued examination. Although racial profiling assumes a major position in the criminology research agenda today, there is general consensus in the criminology community that there is still relatively little research on the issue.

In this chapter, I first summarize the current state of racial profiling research, beginning with the ‘first wave’ of studies that attempt to document the actual practice of racialized policing. Second, I briefly engage theories used to account for racial profiling. Next, I review the ‘second wave’ of studies that pertain to citizen ‘perceptions’ of racial profiling, an issue that the current study is addressing from a critical race perspective. Specifically, I assert that ‘perception’-oriented research, as it is currently discussed in the racial profiling literature, suggests an ‘in your head’ perspective to understanding racial profiling experiences by communities of color. This is particularly evident by the recurring theme in the current literature to distinguish

‘perceptions’ from ‘reality.’ A colleague once described this approach as an attempt to ‘invalidate’ claims of racial profiling made by communities of color, whereas the current study takes as its premise that racial profiling occurs with regularity in the minority community. These issues are discussed more thoroughly in the second half of this chapter where I present my orientation toward ‘perception’-based research and its emphases on personal and vicarious experiences.

Racial Disparity in Traffic Stops

As described by Covington (2001), long-term claims by minorities of being targeted by the police were often viewed as anecdotal accounts from overly sensitive, angry, and disgruntled people of color. Indeed, the body of research now available on racial profiling has only been established in the past decade. This predominantly quantitative research focuses on issues of disproportionality in law enforcement-initiated traffic stops. Namely, are minorities subject to traffic stops (considered ‘seizures’ under Fourth Amendment protections against ‘unreasonable search and seizures’ by the state) disproportionate to their representation in the general driving population? These studies demonstrate racial disparity in traffic stops, with more minority motorists relative to White motorists being stopped by law enforcement (Buerger and Farrell 2002; Harris 2002; Lamberth 1998; Ramirez, McDevitt, and Farrell 2000; Russell 2001; Weitzer and Tuch 2002; 2004). This ‘first wave’ of research on racial profiling also included quantitative studies on key factors in police decision-making processes (Dunham, Alpert, Strohshine, and Bennett 2005; Parker, MacDonald, Alpert, Smith, and Piquero

2004; Sampson and Bartusch 1998; Tomaskovic-Devey, Mason, and Zingraff 2004; Wilson, Dunham, and Alpert 2004).

The bulk of theory on racial profiling concerns the causal dynamics of why racial profiling occurs, and typically emerges from a conflict framework. For example, in a recent study, Petrocelli, Piquero, and Smith (2003) used conflict theory to discuss the police-minority relationship and how the law is differentially enforced against minorities in society in order to protect White interests. Other research looks at a conflict theory variant, group-position theory, to describe how dominant groups view the police as allies (Weitzer and Tuch 2005). Some researchers have discussed how cognitive bias and its associated concept of in-group bias explains the disproportionate numbers of minority motorists stopped by the police (Tomaskovic-Devey, Mason, and Zingraff 2004). Racial prejudice, though rarely directly discussed (and not necessarily subsumed under the above mentioned concepts), is another factor in examinations of racial profiling motivations (Wilson, Dunham, and Alpert 2004). Spatial context is also looked to in explaining racial disparities in policing behavior (Parker, MacDonald, Alpert, Smith, and Piquero 2004; Sampson and Bartusch 1998). Proponents of racial profiling offer statistical discrimination theory ('rational discrimination') to suggest that minorities are disproportionately stopped compared to Whites because minorities are disproportionately involved in criminal activity (Engel, Calnon, and Bernard 2002; Harris 2002; MacDonald 2003).

‘Perception’ Studies

The empirical focus on racial disparity in traffic stops was followed by more quantitative studies addressing factors leading to an individual’s ‘perception’ of being racially profiled (Bennett, Merritt, Edwards, and Sollers 2004; Tyler and Wakslak 2004; Weitzer and Tuch 1999, 2004). Theory about what factors shape citizens’ ‘perceptions’ of racial profiling focus on citizens’ personal and vicarious experiences (Brown and Benedict 2002; Weitzer and Tuch 2005). Racial status, as discussed earlier, is a determinant factor in attitudes toward the police. Some theorize that the overall experience of racial oppression with other social institutions operates as a ‘priming’ mechanism for minorities in shaping perceptions of police behavior (Weitzer and Tuch 2005; see also Bennett, Merritt, Edwards, and Sollers 2004). Studies examining the effects of socioeconomic and racial status on perceptions of discrimination by the police have shown that class is not protective of negative perceptions of the police (Weitzer and Tuch 1999). Research that examines the concept of ‘procedural fairness’ – discussed later in this chapter -- to predict perceptions of racial profiling indicates that quality of decision making, quality of treatment, and inferences about trustworthiness are key criteria for minorities when assessing police behaviors (Tyler and Wakslak 2004).

‘Perception-’ orientated research, however, has the potential to be critiqued for its emphasis on the psychological and the individual. For example, the procedural fairness framework described above is critiqued in recent research (Piquero, Gomez-Smith, and Langton 2004) that links perceptions of unfair sanctions (e.g., racial profiling) to individual low self-control issues considered criminogenic in themselves

(Gottfredson and Hirschi 2004). There is also the concern that research that treats racial matters in the context of ‘perceptions’ or ‘ideas’ has the effect of distancing structural elements of racial oppression. Examining racial matters as merely ideas “limits the possibility of understanding how it shapes...life chances” (Bonilla-Silva 1997: 467). Racial matters operate “in the real lives of black and white people, not in sentimental caverns of the mind” (Bell 1992:198). Given this orientation toward ideas, ‘perception’ research is unexpectedly based almost exclusively on quantitative analysis. For example, a recent survey study (Reitzel, Rice, and Piquero 2004) attempting to explain Latino perceptions of racial profiling included the following questions: (1) Have you had a good experience with the police?; (2) Have you had a bad experience with the police?; (3) Have you ever been a victim of crime?; and (4) What is your political philosophy? The respondent is limited in the quality of response they can provide for these inquiries. For example, a ‘bad experience’ with the police could range from a simple speeding ticket to a traumatizing use of force incident. In-depth understanding of what the larger implications of racialized policing mean is inaccessible given the quantitative approach dominating the current literature that is able to only superficially examine the meanings and contexts that surround a racial profiling experience. Indeed, many recent criminology studies have called for further qualitative examination of racial differentials in law enforcement experiences.

Limitations of Current Approaches to Understanding Racial Profiling

The present study heeds this call from the criminology community to broaden our understanding of the racial differential in experiences with the state. In the

remainder of the chapter, I present my case for approaching the racial profiling phenomenon from a different perspective than is found in current works as most of the literature engages racial profiling from a ‘top down’ approach, rather than from a ‘subaltern’ perspective. I begin by outlining the issues I see with existing studies by contextualizing the ‘perception’ discourse within a critical race theory orientation. Next, I provide examples from the current literature – some already mentioned in the review above – to demonstrate the points of my argument. Finally, so the current study is not viewed exclusively as an overarching criticism of the state of racial profiling research, I discuss one aspect of the research – procedural justice – that ‘sits on the edge’ of the larger issues I argue are inherent to racial profiling processes.

‘Perception’ v. Reality

As noted earlier, a primary reason the ‘perception’ approach is problematic in the racial profiling literature is that it is contrasted with ‘reality.’ Discursively, this places the issue of perception as an ‘it’s all in your mind’ framework. Mainstream scholars don’t directly state this, but in the next chapter on methodology, I argue from a critical race perspective that it is implied. For example, Weitzer and Tuch (2002:463) state the following: “Citizens’ perceptions of police stops may be considered just as important as the objective reality of such stops.” In this case, the authors – leading scholars in the racial profiling literature realm – not only make a distinction between perception and reality, but also, by suggesting the reality is “objective,” create a greater gap between the citizen experience and what is considered to be an objective truth. One aspect of this “objective truth” is that it likely comes from an ultimately subjective assessment of the

traffic stop by law enforcement. That is, the judgment that a given traffic stop is not race-based is in itself a subjective determination. In another instance, the same authors contrast “perceived threats” with “not necessarily real threats” (Weitzer and Tuch 2005:1011). Interestingly, ‘textbook’ definitions of *perception* includes descriptors such as ‘distinguish,’ ‘observe,’ ‘awareness,’ and ‘sense,’ and do not present the term as a contrast to ‘reality.’ The import here is that the current literature’s discourse on ‘perception’ discursively perpetuates a separation from ‘reality’ that ultimately has the effect of discounting minority views on criminal justice.

With that stated, because I take as my premise the understanding that racial profiling occurs with some regularity in communities of color, the issue of ‘perception’ becomes irrelevant in the current study. Manifestations of racial oppression such as racial profiling are regular aspects or “routine activities” of the larger social condition and emerge from the “organized set” of racialized ideas and acts comprising the white racial frame (Feagin 2006:25). My interest is not to determine if racial profiling occurs ‘objectively,’ as the numerous studies on the actual practice of race-based policing have already demonstrated this to be the case. Nor is my interest to determine if people of color think they are being racially profiled when they are not – the subjective issue. The current study is concerned with the effects of racial profiling on those who experience it – the broader contexts that frame the experience for people of color and the larger meanings they associate with the practice.

Micro-Level Focus

Another problematic issue in the perception literature is the tendency for researchers to focus on officers' treatment of individuals during the traffic stop. Treatment includes the degree of respect extended and information about the purpose of the stop. While it is important to examine what is known in the literature at "procedural justice" (Tyler and Wakslak 2004), a concentrated focus on it draws the attention to the micro-level encounter between the citizen and the police officer. This has the effect of distancing the broader, structural dimensions that are present in the encounter as well but remain unexamined. When an officer is rude to a motorist, for example, it is easy to attribute the manner to a 'bad day' or to the general authoritative personality traditionally associated with law enforcement personnel. Dominant group members who have encounters with brusque law enforcement officials themselves may then discount any connection to racism forwarded by people of color. In sum, the orientation of the current literature to focus on the actual encounter of the citizen and the police officer and how it affects the (mere) citizen-police relationship is a micro-level orientation that leaves the social context of broader racist legal and political realms outstanding. Respondents in the current study, by contrast, situate their individual experiences with law enforcement within broader social contexts.

Quantitative Approach Dominates

Another concern centers on the survey-heavy orientation of our body of knowledge on racial profiling. The orientation is particularly troublesome when a number of the current studies make claim that 'the citizens' experience' is vital to

understanding the phenomenon yet do not engage in qualitative methodology that reveals the important meanings inherent to the phenomenon. Survey work is superficial in this regard. The knowledge put forth by quantitative work in the area is important but the criminology community and the public at large is ill-served by such a disproportionate use of one methodological approach.

Theoretical Limitations

A final issue concerns the current literature's omission of race theory in their analyses of racial profiling. Discussed to a larger extent in Chapter II and IV on theory and methodology, little engagement of race theory is evident in the current body of literature. A realization that the literature is generally atheoretical is, however, recently acknowledged (Weitzer and Tuch 2006). The rest of the chapter will provide specific cases in the literature (primarily from the two foremost racial profiling researchers) to support my claims on the above four points, and ends with a discussion of the 'procedural justice' framework.

Examples to Orient Limitations

Weitzer's 2000 piece entitled "Racialized Policing: Residents' Perceptions in Three Neighborhoods," examines perceptions of racialized policing in three socioeconomically and racially diverse communities in Washington D.C. It is a rare instance of a 'perception-' based study that includes a qualitative, interview-based approach to understanding the general issues of police-minority relations. One aim of Weitzer's work is to examine neighborhood context, including crime rates, policing practices, demographics, and local economic conditions, on police-minority relations.

Because a main orientation of police-minority research focuses on the racial differential in attitudes toward the police, respondents are asked to explain this differential. Among their explanations for the differential include Blacks' disproportionate involvement in certain crimes (the 'rational discrimination' argument), and stereotyping by law enforcement. The author sums it up with "...white respondents tended to justify...whereas blacks were more inclined to define disparate treatment as invidious and racially motivated" (Weitzer 2000:141). Weitzer concludes that while race matters in perceptions of police treatment, socioeconomic status is influential as well. Weitzer's study is useful in its examination of both racial and ethnic status and socioeconomic status on police-minority relations and the specific issue of what he calls "racialized policing." It does not, however, delve into specific issues of racial profiling effects on communities of color. I introduce it here specifically because it includes both quantitative and qualitative data, the qualitative of which is not only rare in these analyses but by his own account allowed the researcher to better understand his findings.

Another, more recent, example of the rare use of qualitative work in understanding racialized policing is Brunson's 2007 piece in *Criminology & Public Policy*. This piece extends our understanding of young Black males' encounters with the police through the narrative, particularly the cumulative effects of race-based policing on attitudes toward the police. It is also useful as one of the growing calls for more qualitative work on the policing of communities of color. However, Brunson's examination is oriented to the encounter itself, and thus misses the larger ramifications

of racialization and criminalization processes by the state and the broader realm of citizenship that the current study reveals.

Weitzer and Tuch's (2002:437) recent piece in *Criminology* concurs that there has been scarce attention paid to how the public views the racialized traffic stop, "...despite the fact that traffic stops are by far the most common site of police-citizen interaction." They review several studies concerning attitudes toward the police and issues of justice and equality more generally. This particular study is especially interested in the influence of race, class, and 'perceived' personal experience with racial profiling and how they shape attitudes toward the police. Part of their discussion centers on whether higher levels of socioeconomic status may insulate people of color from unfair police treatment and other social disadvantage ala Wilson's declining significance of race thesis (Wilson 1978), or whether higher class attainment does not necessarily operate as a preventative status for communities of color (Feagin and Sikes 1994; Hagan and Albonetti 1982). The authors' examination of the literature suggests there are mixed results from previous studies that have specifically looked at the effects of socioeconomic status on attitudes toward the police. Regarding personal encounters with the police, Weitzer and Tuch's review of the literature brings no surprises. Direct encounters, particularly negative and law enforcement-initiated ones, were found to influence general attitudes toward the police. Race mattered in whether interactions were considered justified. One dramatic finding is that while nearly three out of four young Black males believe they have experienced racial profiling, only about one in 10 young, White males thought they have been stopped by the police because of racial or

ethnic status. Another conclusion of this study is that regardless of racial or ethnic status, if an individual believes he or she has been racially profiled, they are significantly more likely to be dissatisfied with the police and to agree that race-based policing is widespread. More generally, this study supports other research demonstrating a racial differential in views of the criminal justice system. This study is a good example of the orientation of mainstream criminologists when examining racial profiling. It fails to contextualize the police-citizen encounter beyond the realm of the police or the criminal justice system. I argue that by focusing on attitudes toward the police, these studies are limited. While it is the case that police-citizen contact influences an individual's view of law enforcement, the data and analyses presented in this dissertation suggests the effects of criminalization via the traffic stop influences the broader citizen-state relationship that orders society.

A more recent article by leading police studies researchers Weitzer and Tuch (in *Social Forces* 2005) begins with a call for more research on the public's understanding and experience with racial profiling. Within their opening paragraph they state that the "...perception of police practices as unfair or as racially motivated may lead to more frequent and severe confrontations between police and citizens and to greater distrust of the police" (Weitzer and Tuch 2005:1009). Here again the emphasis of the inquiry is with the bounded police-citizen relationship. The authors are also interested in examining Latino views toward the police because "very little" is known about their views compared to Black and White views (Weitzer and Tuch 2005:1010). To demonstrate the emphasis in the current literature, and to contrast this dissertation's

break from the current line of thought surrounding racial profiling, the following excerpt from Weitzer and Tuch (2005:1012) is useful:

Citizens' personal contacts with the police – especially negative experiences – appear to influence citizens' larger views of the police (Tyler and Huo 2002). One's personal contacts thus seem to affect how people view the police more generally. Moreover, it is also possible that the experiences of family members and friends may be internalized and “vicariously experienced” by the actor, affecting his or her larger views of the police. Similarly, exposure to media reports on incidents of police misconduct (e.g., Rodney King) may adversely affect citizens' confidence in the police, and this effect may be especially true for members of minority groups...

It is clear from the above paragraph that the police-citizen relationship is the point of interest. The three main areas of inquiry – personal contact with the police, vicarious experience, and media exposure – tell us only that these issues are influential. The larger research question, addressed by the current study, is more concerned with why these are important. Knowing that contact with the police influences views toward the police is important; understanding the reasons behind that affect is a neglected aspect of the current literature on racial profiling and one the current study seeks to address.

Further, Weitzer and Tuch's 2005 piece– subject matter detailed to a larger extent in their 2006 book entitled *Race and Policing in America: Conflict and Reform* – is initially framed as a response to the lack of research on “...citizens' views of and reported experiences with police bias,” yet relies upon survey data to illuminate this void in the literature. For example, the survey asks ‘Have you ever felt that you were stopped by the police just because of your race or ethnic background’, and ‘Have you ever felt that you were treated unfairly by the police specifically because of your neighborhood?’ (Weitzer and Tuch 2005:1014). While responses to these and other related questions are

useful in situating minority experiences with the police, the current study's qualitative approach allows respondents to explain deeper meanings and contexts associated with racialized policing.

I engage the extension of this article found in *Race and Policing* in Chapter III on methodology because, as with the *Social Forces* piece, it is a rare example in the literature of using race theory to examine racial profiling. As discussed previously, one major limitation of the current body of work on racial profiling is that it rarely contextualizes the issue within a race theory framework. The authors specifically engage a racial hierarchy thesis to explain the racial differential in attitudes toward the police, and conclude that Latino views of the police – on several measures – fall in between Black and White views. They argue that group-position thesis, a theory suggesting a racial hierarchy resulting from competition over material goods and power first developed by Blumer in the 1950s, is a useful conceptual base in understanding Latino views of the police. However, as described by Esposito and Murphy (1999:405) in their critique of recent works that employ Blumer's theory, the group-position thesis is frequently engaged in a way that de-contextualizes race relations and thus avoids Blumer's emphasis on how they are “constructed, implemented, legitimized, and enforced.”

Another aspect of this study is that it demonstrates the gap between people of color and Whites when it comes to believing the police treat these groups differentially – the “overwhelming majority” of Whites (75%+) believed Blacks and Latinos have experiences similar to Whites when encountering the police (Weitzer and Tuch

2005:1017). According to the authors, this is in line with research on racial discrimination in other aspects of society where Whites generally see it as “isolated and episodic” instead of fundamental to social processes in the U.S. (Weitzer and Tuch 2005:1025). This tendency may help explain the orientation in mainstream criminology to not address racial profiling as a manifestation of larger racial contexts that shape everyday life for communities of color. As well, the study also provides an example of the tendency in the racial profiling literature, particularly that end of the research examining ‘perceptions’ of racial profiling, to demarcate ‘perceptions’ from reality. For example, after laying out an extensive analysis about the effects of racial and ethnic status on policing, the authors state: “Of course, perceived experience with police bias is not necessarily equivalent to actual discrimination...” (Weitzer and Tuch 2005:1026). This work concerns “vicarious experience” as well. To tap into ‘vicarious experience,’ another aspect of their analysis, the survey included a modified version of the above mentioned questions asking if anyone in the respondent’s household had these experiences.

Another study published in the leading journal *Criminology* provides a good example of the narrow context racial profiling processes are examined in within mainstream criminology. That is, racial profiling is largely viewed as bounded by the citizen-police relationship. For example, Tyler and Wakslak comment that racial profiling “...has been blamed from a variety of ills, from increasing friction between the police and minority communities to overall decreased confidence in and cooperation with the police” (Tyler and Wakslak 2004:253). Tyler and Wakslak also posit racial

profiling as largely a micro-level, prejudice-based occurrence, and thus engage a social psychological approach to understanding it. The current study views racial profiling processes as much more than an influence on the police-minority relationship but a social phenomenon that reflects larger social forces emanating from political and legal realms.

Tyler and Wakslak specifically examine the attributions the public makes about officials who engage in particular types of behavior such as racial profiling. As is the case with much of the discourse in racial profiling studies to date, the authors clearly make a distinction between what they refer to as “objective” and “subjective” realities of racial profiling: “...our analysis focuses on the subjective experience of feeling profiled rather than the objective one of being profiled. We do this because we believe that the experience of receiving police attention based on one’s race – regardless of whether profiling has occurred – may be responsible for many of the negative associations of racial profiling (2004:253).”

Many of the studies on racial profiling, particularly those addressing issues of ‘perception,’ include some reference to the objective-subjective dichotomy. As discussed earlier, from a critical perspective, this has the effect of diminishing accounts of racial profiling by communities of color. The Tyler and Wakslak study is also interested in the factors that shape perceptions of police behavior. To this end, they engage Tyler’s “procedural justice” model on the criteria individual’s use to judge fairness in the criminal justice system. The three components of procedural justice are “(1) quality of decision making – perceived neutrality and consistency; (2) quality of

treatment – being treated with dignity and respect, having one’s rights acknowledged; (3) trustworthiness – believing that the authorities are acting out of benevolence and a sincere desire to be fair” (Tyler and Wakslak 2004:256). The authors, looking at four sets of data they collected on various aspects of policing, conclude that when individuals are treated politely and respectfully and have their rights acknowledged, they are less likely to experience a traffic stop as race-based (Tyler and Wakslak 2004). As discussed briefly in other areas of the current study, a similar concept to procedural justice is ‘distributive justice,’ where the fairness of the outcome (is justice, punishment, etc. equally distributed) of a given citizen-police encounter is determinant in how one experiences the encounter (Tyler and Wakslak 2004). As discussed in Chapter V on citizenship, these two concepts are related to the broader concept of citizenship as there is a focus on equal treatment under the law. However, procedural justice, as it is engaged in the current literature, doesn’t illuminate how the disparate treatment impacts the lives of those social actors affected by it. The current study is an attempt to get at this aspect of the racial profiling phenomenon.

Another study that engages the notions of procedural justice and distributive justice includes a lengthy review of several studies on attitudes toward the police and the racial differential that generally emerges in these studies. While useful to some extent, Engel’s 2005 work in the *Journal of Research in Crime and Delinquency*, however, demonstrates that the bulk of research on police-minority relations is survey-based and thus limited in contextualization of the procedural and distributive justice ideals it theoretically posits as explanatory. The author herself acknowledges the limitation in

these previous studies in the following excerpt: “Unfortunately, the research reviewed above has been unable to examine the specific circumstances of citizens’ experiences and how these factors shape citizens’ perceptions of justice and injustice.” Yet, after acknowledging this limitation in the approach to racial profiling and other related processes in police-minority relations, the author relies on another survey-based dataset (the 1999 Police-Public Contact Survey) in her attempt to extend our understandings of the issue. Engel concludes that citizens’ perceptions of injustice with law enforcement, including racial profiling processes, are influenced by “...the perceived *fairness* of the procedures and outcomes they receive” (Engel 2005:464). In her study, Blacks of all socioeconomic statuses were about twice as likely to view a traffic stop as illegitimate and/or that the police acted improperly when making a traffic stop, when compared to Whites (Engel 2005). As discussed in Chapter V of the current study, the procedural justice framework, because it points to this concern with equity in the criminal justice system, may be connected to the larger issue of citizenship when examined through qualitative work. Finally, as in other instances in the racial profiling literature, Engel states that ‘perceptions’ of racial profiling and injustice may not reflect the *actual* policing practices.

Chapter Summation

In conclusion, the above review of the literature on racial profiling provides context for the thrust of the current study. Because I engage racial profiling from a critical race theory framework, one major component of critical analysis is to “challenge traditional ways” of examining oppression, thus the criticism-heavy approach of the

current chapter (Solorzano and Yosso 2002). As well, because the current study was indeed prompted by the current state of affairs in racial profiling research, I feel it is incumbent that I lay out the limitations in the literature, as I see them. All of this is an effort to follow another tenet of the critical approach, that is, to engage in work that is liberative and transformative. The following chapter on methodology more thoroughly engages the intersection of critical race theory with method. I end this chapter by introducing it here with the following excerpt from a defining collection of critical race theory writings:

Critical race theory...is unified by two common interests. The first is to understand how a regime of white supremacy and its subordination of people of color have been created and maintained in America, and, in particular, to examine the relationship between that social structure and professed ideals such as ‘the rule of law’ and “equal protection.” The second is a desire not merely to understand the vexed bond between law and racial power but to *change* it (Crenshaw et al 1995:xiii).

CHAPTER IV

METHODOLOGY

In this chapter, I lay out my approach to examining racial profiling. I am guided by Bonilla-Silva's (1997) work suggesting the operation of race in society reproduces racial inequality because it is "...embedded in normal operations of social institutions," and Feagin's (2006) argument regarding the *everyday* quality of racism that reflects larger racist forces in society. These two orientations are appropriate as the regularity of racial profiling processes in society (the 'everydayness' of racial oppression), I argue, emerges from normalized and racialized practices of the state that manifest in the traffic stop. As convention suggests, a chosen methodological approach is best when it fits the research inquiry at hand. My choice of method – the in-depth interview – is important because we know little about the experiences of social actors who have experienced racial profiling. In the remainder of this chapter, I first offer my rationale for choosing a qualitative approach. Much of this rationale focuses on critical race theory. I then discuss some limitations of current approaches to studying racial profiling, particularly how the scholarship avoids serious engagement of *race*. Next, I turn to the qualitative-quantitative 'divide' by highlighting issues in this regard in the current literature and touch on possible limitations to the current study. I conclude with a 'nuts and bolts' summation of my data collection and analysis.

A Call for the Narrative and Race Theory

The nature of people's experiences is best captured in qualitative research (Jamal 2005). Major studies in the racial profiling literature, including recent works from

leading police researchers Weitzer and Tuch (2004, 2006), include survey questions about individuals' views of the police but most of the inquiries are based on a Likert scale format that prevents a detailed response. Reitzel and Piquero, in their 2006 *Police Quarterly* piece, acknowledge the "perspective of the citizen" is a "crucial element" to understanding racial profiling yet ultimately rely on quantitative survey data for illumination of the citizen view. As argued by Bonilla-Silva (2003:11), "...survey questions still restrict the free flow of ideas and unnecessarily constrain the range of possible answers for respondents."

I specifically engage a critical race methodology – a form of scholarship emerging from critical race theory -- as conceptualized by Solorzano and Yosso (2002). Critical race methodology is directed research "...grounded in the experiences and knowledge of people of color" (Solorzano and Yosso 2002:23). A central tenet of critical race theory is the naming of one's own reality. Another central tenet of critical race theory is the use of the narrative to counter suppositions about racial matters forwarded by white elites. Storytelling and counter-stories (those narratives directly contradicting dominant assumptions) have long been a practice in African American and Latino communities (Bell 1992; Delgado and Stefancic 2000). Critical race theory is intended to present storytelling and narratives as "...valid approaches through which to examine race and racism in the law and society" (Parker and Lynn 2002:10). Narrative analysis is key to critical theory as it is "...a method for eliciting and empowering rarely heard perspectives from subordinated communities" (Russell 1992:758). Russell describes the goal of a critical race perspective:

To identify race as a central rather than marginal factor in defining and explaining individual experiences of the law. By acknowledging racism as the overarching affliction of the American legal system, we may begin to explore the more complex dynamics embodied in facially neutral rules, institutions, and attitudes. Toward that end, attention to differences of racial perspective is not just helpful, but necessary (1992:762).

Critical-oriented work that seeks to generate insight and explain circumstances is also concerned with “...unmasking dominant, social structures and the vested interests they represent, with a goal of transforming society and freeing individuals from the sources of domination and repression (Jamal 2005:235). Critical race methodology concerns a rearticulation of the social science paradigm that posits the researcher as “objective cartographer of knowledge” personified in the positivist tradition of quantification (Wahab 2005:33). Instead, critical methodology-based studies afford “...minoritized bodies possibilities for narrating [and] naming our oppressions and strategies for resistance/survival” (Wahab 2005:32). As noted by Rosaldo (1999:260), traditional examinations of race and crime comes from the dominant group perspective and “...reproduces dominant ideology by studying subordinate groups as a ‘problem’ rather than as people with agency...”

Critical race methodology is a research development emergent from critical race theory. Education scholars Solorzano and Yosso (2002) offer several propositions for a critical race methodology approach. First, a race lens is critical to every aspect of the research process. Second, traditional ways of viewing the issue at hand – here, racial profiling – are challenged. Third, the research process is driven by efforts at liberation and transformation. Fourth, the *experiences* of communities of color are central to the

process and viewed as bases of power. Lastly, sources of knowledge used to inform the research process are varied and critically-oriented.

Politics of Research

As described by Bonilla-Silva (2003:13), social science research is “always a political enterprise.” Noted qualitative authority Yvonna Lincoln explains how this political orientation in the research process is now negotiated, yet still positions research that is not openly articulated as political as relatively neutral:

The desire to create change, to lessen oppression, or to assist in the development of a more equitable world sets up a different research dynamic from that of the disengaged academic whose main purpose is to add to the stock of theoretical knowledge. And if we are to raise such issues about the research process, then the manner in which we present data, and to whom, also comes under renewed scrutiny (Tierney and Lincoln 1997: viii).

Critical race theory is bound to the idea that the experiential understanding of communities of color about how race operates is “legitimate, appropriate, and critical” to our understanding of racial oppression (Solorzano and Yosso 2002). The process of examining and interpreting data has been described as “the interplay between researchers and data” (Strauss and Corbin 1998:13). This premise acknowledges the influence of the researcher on the research project, specifically the “politics, interpretation, and objectivity” that surround the endeavor (Bonilla-Silva 2003:13). Further, in acknowledging the inherent subjectivity and political nature of social science, I agree with Bonilla-Silva’s (2003:13) assessment that “...pure objectivity, the problems we pose, the theories we use, the methods we employ, and the analyses we perform are social products themselves and to an extent reflect societal contractions and power dynamics.”

Rare Examples of Race Theory in Current Literature

In the rare cases where race theory is engaged to better understand how this aspect of the criminal justice system operates, the frameworks employed are squarely from a mainstream perspective. For example, leading police studies researchers Wilson, Dunham, and Alpert's (2004) recent piece represents one of the few efforts in racial profiling research to contextualize the phenomenon within a race theory perspective. However, their emphasis on racial *prejudice* points to a micro-level perspective of how racial and ethnic status operates in society, one that is bounded in a belief and attitude system. Their piece includes a lengthy review of classic race literature on stereotyping, attribution bias, and the like that is a mainstay of social psychological thought. Wilson et al acknowledge that few studies directly address the racial component of racial profiling but the authors still fail to view the possibilities in this regard beyond 'racial animus' or 'racial prejudice' frameworks. More critical race analyses recognize the importance of ideology and attitudes with racism, but consider broader social structures as more fundamental to the reproduction of racial oppression in contemporary times. From a Feaginist perspective, the racialized traffic stop is a mere manifestation of broader, racist social forces underpinning American political and legal realms (Feagin 2001). Bonilla-Silva (1997:467) argues that: "Although 'racism' has a definite ideological component, reducing racial phenomenon to ideas limits the possibility of how it shapes race's life chances" and is thus "... ultimately viewed as a psychological phenomenon to be examined at the individual level." In examinations of racial profiling such as Wilson et al's, the focus is on the individual *prejudiced*

motivations of the police officer which suggests if the deviant officer is removed, the racial problem is removed. Critical examinations consider racism as structural and systemic, a much more expansive conception than prejudice-oriented frameworks suggests (Bonilla-Silva 1997; Feagin 2006).

A second example of the rare instances in which racial profiling research is contextualized within race theory comes from the recent book by leading police studies scholars Weitzer and Tuch. In *Race and Policing in America: Conflict and Reform* (2006), Weitzer and Tuch critique the current state of racial profiling for its lack of a theoretical base. To this end, the authors engage a classic race theory – Blumer’s group-position thesis – in an attempt to situate racial profiling processes into a theoretical context. The group-position thesis concerns racial and ethnic group competition for valued resources. The authors extend Blumer’s original work to include “...groups’ relations with social institutions” to explain why the criminal justice system at large may be viewed with “affinity” by dominant group members (Weitzer and Tuch 2006). Consequently, according to the authors, the theory helps explain the differential in attitudes toward the police among racial and ethnic groups. While the introduction of race theory into the literature is useful, the theory itself is grounded in social psychology (though not limited to the social psychological realm, see Esposito and Murphy 1999), thus vulnerable to similar criticisms discussed regarding the Wilson et al work above. Weitzer and Tuch (2006) conclude that their engagement of group-position theory to explain the racial differential in views toward the police is appropriate as Whites generally indicate positive views of the police and Blacks less so, with Latinos

intermediate in the racial hierarchy. As stated by the authors, “*Race matters a great deal*” (2006:180). Yet, another goal of their examination of race and policing is not well-served by engaging group-position theory – that is, understanding the significance of racialization and criminalization processes expressed via the traffic stop. Although *Race and Policing in America* (Weitzer and Tuch 2006:204) includes a peppering of qualitative data (which they describe as able to provide a “more nuanced” and “deeper understanding” of how people experience policing), its survey orientation and engagement of group-position theory (a combination some consider antithetical to Blumer’s theoretical spirit, see Esposito and Murphy 1999) is limited in what it can offer to understand the context and meanings of racialization and criminalization processes by the state.

The dated nature of the group-position theory is worth commenting on briefly. Originating in the 1950s, the theory was directed at a distinctly different formation of racism than generally manifests in the modern era. That is, the overt displays of racial dominance by Whites in earlier eras, particularly in the police practices to uphold racist laws, are now subsumed under less obvious practices such as racial profiling. Part of what a critical race approach intends to do is uncover the myriad forms of racial oppression that are (more or less) cloaked in normalized operations of the state. Thus, I argue, a critical race approach is more appropriate to understanding the manifestations of racism in the post-Civil Rights era. A premise of the current study is that racial profiling processes – though wholly evident as racialized events to social actors who experience the phenomenon – are regularly rationalized, justified, and neutralized by mainstream

criminology and as a result, (academically) diminished as a social force that helps reproduce the racial order. Critical race theory is concerned with exposing the dominant discourses that nurture white supremacy ideology as it retools racial practices in the contemporary era. In this instance, for example, the current study's focus on deconstructing the 'perception' discourse found in the current literature on racial profiling meets this goal of critical theory.

Approaching Racial Profiling Qualitatively

Currently, qualitative work is an underutilized approach in mainstream criminology. The positivist tendency in mainstream and journal-oriented criminology explains much of the quantitative orientation. However, there is an increasing recognition of the "...importance of narrative analysis for investigating issues of social process and social change" in the social sciences (Wortley, Hagan, and Macmillan 1997:642). As discussed by Strauss and Corbin, qualitative research is

...any type of research that produces findings not arrived at by statistical procedures or other means of quantification. It can refer to research about persons' lives, lived experiences, behaviors, emotions, and feelings In speaking about qualitative analysis, we are referring not to the quantifying of qualitative data but rather to a nonmathematical process of interpretation, carried out for the purpose of discovering concepts and relationships in raw data and then organizing these into a theoretical explanatory scheme (1998:10).

The quantitative versus qualitative divide that exists in the social sciences is evident in the highly quantitative orientation of the leading criminology journals, for example *Criminology*. Mainstream criminology's emphasis on quantification means that oftentimes qualitative work, when it is engaged within the discipline, is held to a quantitative standard. That is, quantifying the number of research participants and

quantifying the percentage of participants who discuss certain themes become major factors in determining the validity and worth of the work.

For example, during my recent job market experiences, I was asked why I wouldn't want to quantify the breakdown of respondents who responded similarly to a particular theme. As a qualitative researcher, the *theme* is the important part of the research. I could very well accommodate the suggestion yet understand the quantification -- X% of the respondents agreed -- has less priority when the purpose of the research is to understand the meaning and experience of the racialized traffic stop on citizens of color. With the current study, not all people of color need experience limited citizenship through racial profiling processes and not all Whites need be granted the 'ideal' of citizenship to make the current study an important contribution to our knowledge of the operation of racial and ethnic status in society, and more specifically, as it affects the criminal justice system. Another referred to my study as *anecdotal*, a term often used to denigrate qualitative work. Critical scholarship views the meanings and understandings that emerge from the narrative realm as possessing intrinsic value.

To use the current racial profiling literature in a demonstration of how qualitative work serves another purpose than quantitative approaches, leading police researchers Weitzer and Tuch's 2004 piece on 'perceptions' of police misconduct offers insight. The survey-based study included over 1,700 respondents. Respondents were asked, for example, "how often do you think police officers stop people in your neighborhood/city without good reason -- never, on occasion, fairly often, or very often," (2004:313) and "have you ever been stopped on the street by the police for no reason?" (2004:315). The

authors conclude that communities of color were more likely to respond in the ‘often’ range and with a positive answer, respectively. This survey analysis shows a link between racial status and views of policing practices, and thus is important knowledge in our efforts to understand how racial status operates in the criminal justice realm. However, it is only able to superficially engage what it is about the nature of the policing practices and why the experience is meaningful. Qualitative work is able to get at the context, meaning, and experiential quality of these relations.

Qualitative Insight

Both sides of the quantitative-qualitative coin help explain racial dynamics but neither is served by imposing the other’s standards on them. Qualitative work is valid not because it can be quantified: qualitative work is valid because it engages the voices of those social actors involved in social processes and allows them to “evaluate, interpret, and respond” (Bolton and Feagin 2004:31) to issues via their own assessments. These responses provide meaning and depth to our understandings of social processes and serve the goal of qualitative research to provide insight on social phenomena.

One informative distinction between qualitative and quantitative work is that of similarity or transferability versus representativeness. In his review of Blumer’s work on the “sensitizing concept,” van den Hoonaard (1997:61) suggests that qualitative researchers are most interested in “...establishing an empirical *similarity* of their cases,” while quantitative researchers are concerned that their findings are representative of the population as a whole and thus are “...striving for generalizations” beyond their sample.

Both strategies are valuable and necessary for understanding the social world but each has its own goals and means to reach those goals.

My methodological orientation is also guided in part by Burawoy's notion of the extended case method as it is concerned with the context of meaning and the macro determinants of everyday life (Burawoy 1991). Specifically, Burawoy (1991:282) views the extended case method as an effort to take "...the social situation as the point of empirical examination and works with given general concepts and laws about states, economies, legal orders, and the like to understand how those micro situations are shaped by wider structures." The extended case method is concerned with the generalization of theory. This orientation is appropriate in the current study as narratives are accounts of the everyday that reflect larger forces in society.

Limitation of the Current Study

Given this, I address one of the main criticisms of qualitative research: Is a study that involves a relatively small number of respondents considered valid work? Criminology and racial and ethnic studies has their share of important research studies that relied upon one or a small number of respondents for illumination of a particular subject. For example, Clifford Shaw's 1930 book *The Jack-Roller* chronicled the experiences of one juvenile delinquent and is viewed as an informative work in social science research. Shaw, from the Chicago School, was later recognized for his development of the now-classic social disorganization theory in partnership with Henry McKay. William Chambliss's 1973 article *The Saints and the Roughnecks* was an ethnography based on 14 youths and is considered an essential work in introductory

courses in criminology today. Carl Klockar's 1974 book *The Professional Fence* is another now-classic study (and based upon Klockar's doctoral dissertation) in criminology whose focus was one individual who offered insight on the broker component of stolen goods trafficking. Klockar is now recognized as one of the early scholars in police studies. In racial and ethnic studies, the ground-breaking work of Ruth Frankenberg in her 1993 *White Women, Race Matters: The Social Construction of Whiteness* book, for example, was based upon only 30 respondents. This book ushered in what is now a developed area of race studies on whiteness. I suggest that one of the reasons why these works were successful and viewed as quality scholarship is because the experiential quality of each, when contextualized within existing knowledge, are indeed authentic in their representations – however limited the N. With that, I next discuss the specifics of my methods.

Method

I collected interview data from 26 individuals. The race/ethnic/gender status of my respondents includes 10 Latinos, two Latinas, five Black males, six Black females, one biracial female, and two White males. The first of the two primary locations for data collection is a South Texas city with a population of approximately 280,000 (U.S. Census Bureau). Demographically, the city is 2% Asian, 5% African American, 54% Latino (primarily Mexican American), and 74% white. The second location is a Southeast Texas region with a population of approximately 140,000 (U.S. Census Bureau). Demographically, the region is 5% Asian, 13% African American, 19% Latino, and 74% white. Because of its substantial Latino population, the South Texas

locale provides access to a relatively under-researched group in the police-minority relations literature (Martinez 2007). The second location was primarily chosen out of convenience. Funding was secured to conduct data collection in both locations.

Research participants were recruited through networks I have in both areas, and then snowball sampling was used to recruit other research participants. These networks included contacts in university settings, religious institutions, the criminal justice realm, and the community at large. Potential respondents were informed that the general nature of the research concerned their experiences with law enforcement where they believed racial or ethnic status factored into the encounter. Research participants were assured of anonymity. While the sample is nonrandom, efforts were made to include a sample in which the “language, understandings, and orientations” of the sample is reflective of the larger experiences of communities of color (Bolton and Feagin 2004:39).

The current study quotes heavily from these interviews, with an emphasis on respondents who presented detailed and illustrative articulations of their experiences with racial profiling. Though not all respondents are directly quoted in the current study due to the directed topic of examination, their insight was useful in the organization and theorizing on the project. In addition, my future research agenda (discussed in the concluding chapter) is informed by their input.

The interviews, conducted, audiotaped, and transcribed by me, lasted between 30 minutes to more than two hours. I felt it was necessary that I handle transcriptions in order to refresh and expand on my initial reflections of particularly important points of the interview. I did not engage in traditional conversation analysis, such as accounting

for pauses, incoherence, and other speech details, in large part due to the evident flow of the interviews. To put this in context, my master's thesis involves in-depth interviews with primarily White police officers about police-minority relations and racial profiling specifically. The data collected for the master's did call for special attention to pauses and incoherence in speech, for example, as these and other indicators of tension in the interview were immediately evident. Conversely, the interviews with people of color about their racial profiling experiences did not include similar discursive stumbling and incoherence evident in the police interviews. Indeed, the current respondents were quite direct and genuinely expressive in their accounts.

All respondents were assigned a pseudonym. While a data sheet was used to collect anonymous demographic information, a pre-tested, semi-structured interview schedule was used that consisted of a series of open-ended questions to facilitate a conversational style interview format (see the Appendix for general questions).

Generally, respondents were first asked to give their definitions and impressions of racial profiling, after which I generally inquired as to whether they had a specific instance they could relay where they believed racial or ethnic status played a role in an encounter they had with law enforcement. Respondents were not subjected to a strict format but encouraged to discuss issues surrounding the general topic.

Following Rockquemore's (2002) approach to analyzing interview data, I first devoted time to distilling relevant topic data from nonrelevant information before focusing on emergent themes and similarities present in the data. Each interview was listened to more than once and the resulting transcripts were read, in some cases,

numerous times. I then collapsed the sub-themes that emerged into more general categories. For example, the general theme of citizenship discussed in Chapter V was created after the emergence of common references to accountability, knowledge of rights discourses, or direct claims to Constitutional protections as indicated by one respondent's statement that "You belong in our society if you are treated by the Constitution and the Bill of Rights. That's when you belong."

Ultimately, after fine-tuning my research agenda to address the specific issue of the 'perception'-based studies in the current racial profiling literature and its focus on personal and vicarious experiences with law enforcement, I sorted the narratives as they fit into these two general categories. I then contextualized the data as it applied to the themes of citizenship, resistance, panopticonism, and 'the lesson,' all of which are defined and detailed in the two data chapters that now follow.

The following two chapters comprise the main data findings. With a critical eye to the 'perception'-oriented work in the current literature, I focus on two of its primary components – the effects of personal and vicarious experience on racial profiling 'perceptions.' As discussed in Chapter II on my conceptual frameworks and furthered in the chapters to follow, I engage the ideas of citizenship and resistance with personal experience (Chapter V), and the ideas of panopticonism and 'the lesson' with vicarious experience (Chapter VI). Both data chapters are also more broadly contextualized within the systemic racism and double-consciousness works of Feagin and DuBois, respectively.

CHAPTER V

CITIZENSHIP, RESISTANCE, AND PERSONAL EXPERIENCES

In this chapter, I address two primary issues. The racial profiling literature falls into two general waves of research focus. The first wave is characterized by the documentation of the practice of traffic stops and the now well-documented racial differential that subjects communities of color to more scrutiny on the road than their White motoring counterparts. This wave also includes data on the decision-making processes of law enforcement in regards to the traffic stop. The second wave of research on racial profiling took an interesting turn away from the law enforcement view of the issue and currently examines individuals' 'perceptions' of being racially profiled. Put another way, what makes a person think the traffic stop they've been subjected to is racialized?

Contextualizing the Current Literature on Personal Experiences

The purpose of this chapter is to expand our understanding of the traffic stop from the view of citizen involved in the encounter. The vast majority of data on 'perceptions' of being racially profiled is survey-driven and thus limited in what it can offer in regards to the meaning and context of a given social phenomenon for those actors involved in the phenomenon. With the current research on 'perception,' personal experience or contact with the police emerges as the most salient variable in determining whether an individual experiences a traffic stop as racialized. A second notable variable in determining whether an individual experiences a traffic stop as racialized is indirect or vicarious experience with the police, which will be discussed and contextualized in the

following chapter. In this chapter, I examine the effects of the traffic stop and, on occasion, more general aspects of criminalization processes inherent to police-minority relations, on people of color. What is it about the traffic stop encounter that creates a racialized experience for communities of color? I am interested in the meaning associated with the encounter from the view of the individual subject to state intervention. To directly tie it to the current literature on racial profiling, what is it about the personal experience or contact with law enforcement that makes an individual understand a traffic stop as racial profiling?

Citizenship and Its Limitations

I argue that the racialized traffic stop is viewed as a component of a much broader system of racial inequality in society. Contrary to what the current literature suggests, the effects of what is experienced to be a racialized encounter with law enforcement are not limited to the police-minority relationship. Data from my respondents points to a break from citizenship following these encounters. The encounters are often considered watershed moments in the lives of people of color that alter their relationship with the state. These respondents engage the justice and liberty rights framework that characterizes the citizenship realm yet critique the ideology as it operates in practice, thus rejecting the white racial frame that positions the rights discourse as mere rhetoric. Black and Latino respondents reflect in similar ways on the impact of racial profiling in their lives, thus pointing to the largely white-bounded nature of citizenship in practice in the U.S. and the common alliances that the white racial frame invokes. The current literature on racial profiling is largely silent on the broader

issue of citizenship and indeed appears bounded to a micro-level analysis of the police-minority relationship. This tendency in the current literature, however, is not surprising given its limited engagement of race theory, particularly critical theory, to understand racial profiling processes.

Resistance to Shadow Citizenship

The second primary issue addressed in this chapter is resistance to racial profiling. As discussed in Chapter I, the racial profiling literature to date does not engage racial profiling as one primarily about racial oppression. The current study addresses racial profiling squarely in the realm of racial oppression. As described by Feagin (2006:31), examinations of racial oppression must include examination of the constant resistance where communities of color “counter, restructure, and overturn” societal oppression. Collins (2000), in her work on Black women’s resistance efforts, describes how these acts of resistance manifest in both direct and indirect confrontations with power. None of the literature on racial profiling that I am aware of examines resistance to racial profiling, thus making this aspect of the current study a unique and arguably much needed contribution to our understanding of the phenomenon.

Specifically, I engage Collins’s work on resistance to extend her ideas on Black women’s resistance to racism and sexism into the citizen-state realm that encompasses racial profiling processes. I use Collins’s work because she frames part of her discussion of oppression as being about surveillance and the rejection of controlling identities. Surveillance and the rejection of criminalizing identities is fundamentally a part of the racial profiling realm. Collins’s(2000:201) work is also important because she not only

examines resistance as direct confrontations with “institutional power,” but also examines less obvious manifestations of resistance in what she calls “struggles for group survival” as equally meaningful strategies of resistance. Similarly, Yosso and Garcia (2007) offer a more recent explication of these varied modes of resistance, including their arrangement of “resistant capital” that was developed in response to Bourdieu’s classic and they argue *flawed* conception of cultural capital. As well, Haenfler (2004:429), in his examination of subcultural resistance, suggests “...at the individual level, resistance entails staking out an individual identity and asserting subjectivity in an adversarial context. In addition ...individualized resistance is symbolic of a larger collective oppositional consciousness. In practice, confrontations with institutional power – here the state – coalesce with more subtle forms of resistance. Paths to resistance are many, informal, formal, fluid, and intersectional. As put by Collins (2000:203), if “...power as domination is organized and operates via intersecting oppressions, then resistance must show comparable complexity.”

A guiding research inquiry with this aspect of the current study is what are the forms of resistance that emerge following a racialized traffic stop? The most obvious form of resistance is referred to as a direct confrontation with institutional power. Collins (2000:202) argues that this mode of resistance has been historically off-limits to Black women because of their lack of access to institutions and traditional realms of activism like labor unions and the political arena. Similarly, I argue, communities of color have been historically denied access to the law enforcement realm and have suffered as a main target of law enforcement practices. Indeed, direct confrontations

with the institution of the police force historically and even contemporarily could result in death. Collins argues that more covert forms of resistance emerge when conditions are too perilous to make direct confrontations with power, and that traditional examinations of political resistance do not always recognize varied forms of resistance. She refers to these more subtle forms of resistance as struggles for group survival. Part of the struggle for group survival includes “crafting political strategies” that privilege critical consciousness in the face of racial oppression (Collins 2000:204).

As noted, the most overt form of resistance in Collins’s work is the direct confrontation with institutional power. Regarding the racialized traffic stop, I consider any discussion of going through formal channels in this category. It includes, for example, asking for a supervisor during or following the encounter and/or requesting written documentation of the stop. The latter issue, the demand for a citation when none would otherwise be given, is an interesting dimension of resistance to racial profiling. By some accounts, when a person of color is detained but then ultimately let off without formal documentation of a violation, it may be supportive of initial indications the citizen had that the stop was racialized (West and Fenstermaker 1995). While Whites may even boast about ‘getting out of’ a ticket, the experience for many people of color is different.

The less direct forms of resistance include a rejection of white supremacy ideology-authority-power and what Collins calls self-definition and self-valuation. In the racial profiling realm, this emerges via a rejection of the criminal identity that is imposed on the person of color during a traffic stop. Not only is the criminal identity

denied, thus indicating a rejection of the state's ability to ideologically shape one's self-concept, but many of the respondents engage in credentialing to demonstrate their connection to the citizen ideal. I also view the cases in which a respondent indicates that he or she directly invoked the issue of racial or ethnic status into the encounter as a clear rejection of white authority and power. Self-definition and self-valuation may include what has elsewhere been referred to as "role flexing" (Wilson and Miller 2002). These concepts include instances where people of color are aware of racial oppression but limit their outward rejection of the oppression in order to have control in the situation. Although role flexibility may be viewed as an engagement of accommodation or capitulation to the racial oppression, Collins's argument is that playing the game is indeed a form of resistance when there is critical consciousness of the situation. In the racial profiling realm, as noted earlier, 'doing what you have to do' to get yourself out of a given situation is in practical terms an issue of group survival for communities of color over the centuries.

Another dimension of resistance is producing "tangible, political changes" in others' lives, in addition to their own (Collins 2000:203). In the racial profiling resistance realm, this encompasses, among other things, efforts to become more informed about law enforcement, offering guidance ('the lesson') within their social networks about how to deal with law enforcement encounters, and making a call to others to resist forms of oppression in their own lives.

A final aspect of resistance that I engage in analyzing the narratives is what Collins's (2000:221) refers to as "personal troubles" being "politically constituted." Part

of classic feminist theory, this component is clearly related to citizenship discourse. It concerns one's awareness of how the larger social context influences personal experiences and points to a collective consciousness that marks citizenship. Those instances where the respondents make reference to communities of color as a collective, and the collective impact that racialization and criminalization processes have on them as a whole, are considered under this framework. Resistance to limited citizenship is part and parcel of the police-minority relationship.

Contextualizing Citizenship, Shadow Citizenship, and Resistance

Citizenship is a fundamental concern of the racial profiling phenomenon as racial profiling encounters result from broader legal and political realms. Citizenship emerges in subtle and direct ways throughout many of the interviews. I begin this section by discussing various conceptions of citizenship and the various ways citizenship marks the police-minority relationship. As another theoretical component to this data chapter, I incorporate DuBois's notion of double-consciousness as it relates to citizens of color. This is an appropriate connection to make in the current study because the 'personal experience' variable so highly relevant in the current literature on racial profiling emerges as an issue of citizenship and thus is reflective of larger racial forces that shape our social landscape. DuBois's concern with reconciling the experience of being Black (more generally, a person of color) with the experience of being a full citizen is a dominant narrative in the analysis to follow. This double-consciousness is evident in those instances where many of my respondents acknowledge the impact of racial status on their encounters with the state and when they articulate the liberty and justice frame

that continues to shape their conceptions of citizenship, regardless of the shadow citizen experience they are subjected to in practice. I briefly discuss the current state of affairs of the racial profiling literature in regards to citizenship, specifically the concept of “procedural justice” that has emerged in some analyses of police-minority relations (Tyler and Wakslak 2004). Next, I provide analysis from a number of respondents who engage the issue of citizenship, both directly and indirectly. Accompanying the narratives on citizenship are narratives on the various modes of resistance that emerge in the wake of racialized and criminalized encounters with the state. In many instances, the issue of resistance is intricately intertwined with shadow citizenship experiences. For DuBois, the awareness of both worlds – here, the world of citizen and the world of shadow citizen – is not exclusively burdensome because of the critical consciousness that is borne from the experience. The analysis that follows flows in and out of the various dimensions of citizenship, shadow citizenship, and resistance to the latter.

I conceptually use the idea of ‘shadow citizen’ to prioritize the two-tier system of citizenship that many people of color experience in the U.S. Again, it refers to the ideology of Constitutional claims to ‘liberty and justice’ rights of full citizenship and the accompanying contrast of the reflection or *shadow* of citizenship that essentially disenfranchises many people of color in practice through a loss of rights and protections. This idea articulates the duality of citizenship rights and protections that many people of color are aware of when dealing with the police. Racial profiling processes limit certain citizens’ full participation in citizenship because the protections against state intervention – here in the seemingly innocuous setting of the traffic stop – are limited for

people of color. The incorporated quality of whiteness that imbues citizenship means that communities of color forego full citizenship status in the eyes of the state. For many of us, the citizenship identity emerges most fully during encounters with the state. Respondents' claims about the regularity of limited citizenship status is evident in one respondent's comment that his getting stopped by the police on a number of occasions is part of 'the Black experience,' and thus suggests there exists a differential experience of citizenship for minorities and Whites.

My respondents discuss several dimensions of shadow citizenship. These include a lack of protection from the state, struggles when invoking their own knowledge of rights, lack of accountability from the state, and a sense of the collective identity that manifests as personal troubles being 'politically constituted.' The identity of shadow citizen imposed upon many people of color is clearly rejected in the dominant narratives. Respondents' engagement of citizenship discourse reflects their own perspective of citizenship that takes priority over the subordinate identity imposed by the state. They occupy a regulatory position on citizen-state relations by remaining tied to the dominant frames of citizenship and democracy. Their lived experiences demonstrate the limits of citizenship placed upon them by the state but for the most part, they still uphold the justice and liberty rights framework that has guided direct and indirect forms of resistance against racial oppression for centuries. As described in an analysis of David Walker's 19th century *Appeal to the Colored Citizens of the World* (2000), faith in the ideology of citizenship and democracy does not prevent communities of color from attacking the practices of the state. These respondents show that the ideal of citizenship

can hold up as an ideology – demonstrated by their engagement of the citizenship discourse and the identity they ultimately contextualize themselves within – while the state’s obligation to citizenship is unfulfilled.

Varied Formulations of Citizenship

Citizenship is characterized by inclusion and exclusion, by formal and informal means that either promote or deny “full social, economic, and political rights” (Cook 1993:136). Citizenship is concerned with the rule of law and its application to the liberty of individuals and their right to justice (Marshall 1964). A primary right of the citizen, to be clear, is freedom from state intervention, unless, as articulated by the Fourth Amendment to the U.S. Constitution, there exists ‘probable cause.’ For Aristotle, a citizen is one who rules and is ruled in turn. Citizenship is marked by the liberty and justice rights framework that is embraced as a standard of democratic ideals. The liberty and justice framework also serves as a ruling ideology posited by dominant Whites to bolster the white racial frame that organizes society (Feagin 2006).

The narrowing of the “constitutional grant of citizenship” manifests in both overt and covert ways over the course of U.S. history (Delgado 1999:248). The Constitution itself was written by slave-holding White males who intended for the protections of liberty and justice to be extended only to those who mirrored their own image, namely White male property owners who comprised roughly 20% of the population (Feagin 2006). Later, literacy tests and national-origin quotas characterized more obvious maneuvers, though denial of substantive citizenship is continuous through to the current

era of colorblind racism (Bonilla-Silva 2003). Racial profiling is one of the more subtle ways that racial oppression via denial of citizenship operates in the current era.

Citizenship may also involve “a transcendence, a greater collectivity in which we get beyond our local identities and concerns” (Phillips 1993:81). McLaughlin (1992) characterizes citizenship from a ‘minimalist’ view that is formal and legal, and from a ‘maximalist’ standpoint that incorporates broader recognition of collectivity and democratic ideals. As Williams describes it:

If one looks at documents like the Declaration of Independence and the Constitution, one can see how they marry aspects of consent and aspects of symbology – for example, concepts like the notion of freedom. On the one hand there is the letter of the law exalted in these documents, which describes a specific range of rights and precepts. On the other hand there is the spirit of the law, the symbology of freedom, which is in some ways utterly meaningless or empty—although at the same time the very emptiness provides a vessel to be filled with possibility, with a plurality of autonomous yearnings (1991:16).

Citizenship also has implicit notions of sameness and collectivity that do not address multi-cultural, multi-concern issues that emerge in a stratified state. Young (1989) argues that citizenship is already based upon a dominant ideal (namely, wealthy white male solidarity) and attempts at transcending personal concerns for the ‘good of the collective’ subjugates oppressed groups because their concerns are likely not at the fore of the ‘collective.’ Engaging in the discourse and activity of ‘transcendent’ citizenship reinforces white privilege. As Jones states:

...a citizen is one whose membership is contingent upon the ultimate subordination of the specific bonds of gender, race, and class – indeed, all particularized identities – in favor, most often, of a national identity and loyalty to the state. To become a citizen is to trade one’s particular identity for an abstract, public self. But the identification of citizens and the definition of citizenship is derived from the representation of the behavior of a group with

particular race, gender, and class characteristics (white, male elites) as the model of citizenship for all individuals(1990:784).

In these more critical examinations of citizenship, whiteness is an incorporated quality of citizenship in the United States. While people of color may be formally extended citizenship, its inherent protections are not extended (Cook 1999).

Another element of citizenship is the reciprocity that it implies between the state and its citizenry. This concept, the *contractual* way of viewing citizenship, posits that the state and the citizenry have certain rights and obligations that bind each other (Kerber 1998). The citizen has rights to a certain degree of autonomy and protections in exchange for following guidelines of behavior that do not undermine the state's supreme authority. The social contract framework suggests an agreement between entities to do something, and is specifically a "theory that founds government on the popular consent of individuals taken as equals" (Mills 1997:3). Mills (1997:10) describes how the contract is an effort to develop "a trust of rights and powers" in a relationship with a governing entity. When racialization occurs, Mills (1997:3) argues that the social contract central to Western political theory becomes "...not a contract between everybody ("we the people"), but between just the people who count, the people who really are people ("we the white people"). So it is a Racial Contract."

Racial profiling is facilitated by a negation of the citizenship trait of state accountability. People of color may be viewed as non-participatory in the other realms of civic life – the political realm, for instance – and thus officers may view them in the shadow citizen realm and are thus not *as* accountable to and not *as* accountable for in their actions. Citizenship also concerns spatial governance – the *who belongs where*

reality that regulates the racial state. The out-of-place doctrine that frames the police-minority relationship is not only about the physical boundaries that are racialized in the U.S. As indicated by my respondents, expressing knowledge of rights and civil protections during an encounter with law enforcement sometimes leads to escalated ‘anti-citizen’ reactions from the police. People of color in these encounters are viewed as not knowing their ‘place’ when they invoke the citizenship realm.

Procedural Justice Framework

When the racial profiling literature does address citizenship in general terms, it comes in the muted form of the ‘procedural justice’ framework put forth most notably by Tyler and Wakslak (2004). Procedural justice concerns the treatment a citizen experiences during an encounter with law enforcement and whether the treatment is viewed as fair by the citizen. Researchers interested in procedural justice inquire about the quality of decision making and treatment by law enforcement and about evaluations of trustworthiness of the police during a given encounter (Tyler and Wakslak 2004). The procedural justice framework assumed a primarily spot in the second wave of research on racial profiling that focused on what makes an individual ‘perceive’ he or she is being racially profiled. According to this framework, individuals who are treated courteously, informed of their rights, and told why the police are taking certain actions during an encounter are less likely to consider the encounter in the racial profiling realm (Weitzer and Tuch 2006).

The racial profiling literature, however, is limited in extending the procedural justice concept beyond the brevity of the traffic stop. The fair treatment aspect of the

procedural justice framework is generally bounded within the specific police-citizen encounter. I argue that while the procedural justice framework is useful to an extent, its focus on the micro-level is short-sighted. For example, Weitzer and Tuch (2006), in their examination of the literature on how individuals' personal experiences with the police are influenced by procedural justice ideals, conclude that "...the *process* trumps the outcome" of an encounter between an individual and the police. This places the event of the traffic stop at the fore while ignoring historical and contemporary realities that go well beyond any 'niceties' that an individual officer may extend to the citizen. This emphasis likely comes from the manner in which racial issues are currently addressed in the racial profiling literature, that is, on an individual level that makes it difficult to recognize the broader, more systemic aspects of racialized processes.

My respondents make clear that not only does an encounter with the police that falls short of procedural justice ideals influence their view of the police generally, they establish linkages between the micro-level traffic stop and citizenship at the broader societal level. The procedural justice framework sits on the edge of the greater issue of citizenship. While procedural justice is concerned with fairness in social experience, I argue that the more pressing concern is that, for many people of color, the traffic stop is representative of larger social forces of racial oppression that manifest in the ordinary. Communities of color situate their personal experiences into broader frames of reference that are reflected in Collins's (and earlier feminist thought) concept that personal troubles are politically constituted (Collins 2000).

The Traffic Stop in Context

The extension of a racialized traffic stop to other and more comprehensive dimensions of society – the broader legal and political realms, for example – demonstrate what Feagin visually constructs as a series of encompassing boxes that increase in size from the center. A given episode of racism such as a racialized traffic stop is represented by the innermost box. While significant enough in itself, that specific episode manifests due to the encompassing larger boxes that represent the broader legal system, political system, and truly dispersed white supremacy ideology that shapes our racial landscape. Continuing with the visual representation, symbolically, these encompassing boxes reflect the white racist frames – the organized ideologies and behavioral inclinations -- that Feagin (2006) argues facilitates racial oppression in the contemporary era.

My respondents offer incredibly rich accounts of their criminalizing encounters with law enforcement, indicating the degree to which they have been marked by the encounter. These sometimes painfully detailed stories however are most impressive because of the after effects of the encounters, that is, the connections made to broader oppressions underlying the legal realm. In some cases, my respondents directly engaged the citizens' rights discourse. The citizens' rights discourse includes discussion of protections, rights, 'social contract' obligations, Americana, patriotism, and concern for the collective among other issues (throughout this document, I make reference to this discourse as a 'liberty and justice rights' frame and posit it in counter to the white racist frame (Feagin 2006) and accompanying mechanisms that facilitate a racialized criminal

justice system). In other cases, the implication of citizenship concerns was evident though less direct. Much of this discourse reflects DuBoisian double-consciousness. In the remainder of this chapter, I present data and analyses on the issue of citizenship, its counter, shadow citizenship, and resistance to the shadow citizen identity.

Silent No More: The Voices of Citizenship, Shadow Citizenship, and Resistance

The basic format of the interview was to ask my respondents for their definitions and conceptions of racial profiling, before inquiring about any experiences they may have had with law enforcement. Soon into the data collection part of my research project, I realized that my respondents framed the specific issue of racial profiling within a broader sphere of social processes, particularly the citizenship realm. To begin with, Darrell, a Black male in his 20s with some college, describes how an awareness of citizenship issues influenced his only arrest encounter (for a very minor infraction) with law enforcement. In the excerpt below, I asked Darrell if he could offer any examples where race was a factor in his encounters with law enforcement.

YYYYEEEEPPP! When I was 18, a few months out of high school, I was arrested for my first and last time. In short it was just, basically the officer involved didn't like my mouth or the fact that I was a young black male out doing what I was doing – which wasn't illegal. But more so, he didn't like the fact that I knew the laws. My mother had taught me. She did citizen's police academy. I used to read her books. I was abreast of what extent I could go to as far as when a law enforcement officer stops you -- whether on foot or in a vehicle. I was singled out basically for no reason. Like I said, partly because of my mouth but for no reason at all. After the arrest came down and I was booked and everything, I got in the holding cell. When they finger printed me and took my snap shots, I was subjected to being called...racial slurs, racial epithets. Just a lot of things. They figured that, this was just my opinion, because of my mouth and because of the knowledge I had. Me being aware as I was at that age. Perhaps they would break me or...I don't know. They did what they did.

Darrell frames himself as knowledgeable about the law, having been informed by his mother after her involvement with the community police academy. He comments that his knowledge and youthfulness were factors that led to his *not knowing his place* in the eyes of the officers involved. Speaking in a measured tone, Darrell states that the treatment he received in the police department included racial slurs and epithets. Significantly, Darrell remarks that the officers intended to “break” him, a reference to the days of slavery and the ‘breaking’ of willful slaves. Both Darrell’s mother and Darrell engage in resistance to racial oppression by making tangible, political changes in their lives by becoming educated about the law enforcement institution. A common theme for Darrell involves his knowledge of the rights and protections that fall under the citizenship ideal: “I have that right to say what I need to say in order to defend myself. To make him [an officer] aware that I know what I’m talking about and that I know what the laws are. To let him know that I’m not going to just sit up here and let him do what he’s doing without knowing that I’m aware that he’s doing it to me.” Resistance emerges here in the form of a rejection of white authority and power and an assumption of the rights of citizenship. Darrell also self-defines the situation and makes clear that the awareness of racial oppression in itself is a form of opposition to it. The insight that is contained in DuBois’s double-consciousness is evident: Darrell identifies as a citizen and clearly understands the protections under full citizenship, while recognizing the limitations he is subjected to as a young man of color.

Another respondent, Javier, a Latino in his late teens with some college education, contrasts his lived experiences with the experiences of Whites in similar situations with law enforcement.

I had gotten an MIP (minor in possession). Me and four of my friends...it was kind of late and it was dark out. We were parked near the shore. We had Budweiser on us and we were drinking. We obviously got stopped. After we got the tickets and everything, we had stayed there. Of course we had to spill out all of the beers. We went walking down the beach and there were a couple of people...they were white. They had a bonfire and all that. They had like a little party. We asked them -- 'did the cops stop by here?' They said 'yeah.' I noticed that some of them didn't look too old. They said they didn't even get questioned or anything. I was pretty mad about that. I thought that these cops -- I thought it was some kind of a racial thing. I mean it was clear over here in my little junkie car, we don't have a fire or lights or anything and it is only four of us. Then, the other people have the big bonfire and everything out and had a big radio making lots of noise. I was thinking why didn't they get stopped? Isn't that more of probable cause?

Javier's sense is that his experience was criminalized through the actions of the state when similar actions by a group of young White males were not criminalized. A fundamental component of racial profiling is the targeted application of law enforcement resources to communities of color when Whites engage in similar behaviors but do not receive such scrutiny. Javier's immediacy in contrasting his experience with the group of White youths points to his awareness that the rule of law inherent to the citizen-state relationship is differentially imposed. He directly engages the citizenship discourse through his use of the expression "probable cause," -- a significant and formal legal element of citizen protections against state intervention, thus constructing a Constitutionally-bounded sense of identity for himself.

Kimberly, a Black female in her 30s earning a graduate degree, relays one memorable encounter with the police in which, based on citizenship expectations, she questioned the treatment she received from law enforcement.

I was pulled over by a police officer and I wasn't really sure why. It's not like I was driving a flashy car – I was driving a Volkswagen Fox. Once the police came behind me, it was daytime so I thought I was safe and I pulled over. Immediately when the police officer came up, the first question that he asked me -- 'I want to ask you, do you have any drugs or weapons in your car?' I was so shocked that he asked me that. I looked at him and I said 'Why are you asking me that?' He said 'Ma'am, I'm asking the questions here. Do you have any drugs or weapons in your car?' I said 'Now wait a minute. I want to know if this is standard policy to ask this question or is this a question that you are asking me because I'm a black, you know, black person driving?' At that particular time he told me 'Ma'am, step out of the car.' At this point, I'm not sure who I'm dealing with – this white officer and he's asking me this question. I'm somewhat defensive. He proceeded to let me know that he didn't appreciate me letting him know that he wasn't being objective in doing, performing his job. Again, I still want to know! Is this standard procedure or do you ask everybody? He completely ignored me and went around the car looking for stuff on my car.

Kimberly's narrative touches on a number of concerns salient to police-minority relations. First, she makes a connection between the type of vehicle she drives and the likelihood of getting stopped by the police. In the police-minority relations literature, the vehicle emerges as context for officer decision making. 'Flashy' cars signal potential drug dealing. The connotation is that minority motorists can not afford expensive cars unless they are involved in the drug trade. Kimberly remarks that the setting of daylight offered her a sense of safety, thus suggesting that a traffic stop in the cover of night is a concern for her. Her outrage over the incident is provoked by the criminalization, and the immediacy of the criminalization, that occurs with the officer's initial question if she has drugs or weapons in her possession. Kimberly invokes the citizenship realm by asking the officer about "standard policy" procedures that are

theoretically established to provide a uniform experience for citizens in their encounters with law enforcement. Resisting the ideology of whiteness-equals-authority, she directly inserts the issue of race into the encounter, on her own terms, by inquiring if her racial status was the motivation for the traffic stop. Assertion of citizenship prompts the officer to increase his level of coercion and authority over Kimberly as he dismisses her questioning of his neutrality. Kimberly continues to assert her citizenship, pointedly telling the non-responsive officer: “I still want to know!” Noticeably upset at this point in the interview, Kimberly left me with the impression that the encounter was so vivid and raw in her memory because of its recentness. Later she reveals that the event occurred some 15 years prior, thus indicating the staying power of these watershed events. Kimberly concludes the narrative with remarks on how the increased coercion from the officer led to additional resistance on her part.

He let me know that he was going to note my attitude on the ticket. I was like – ‘OK, great...Sergeant...Officer...’ I looked at his name tag. ‘I’m going to note your attitude as well because you still haven’t answered my question.’ At that point, he became defensive and was telling me that he could actually, because of a light, leave my car on the side of the road and [I would need to] walk wherever I needed to go. I said ‘Now look, there might be a lot of things that you can do but one thing that I won’t do when I leave this particular point – I will not be walking! If that means you have to give me a ride where I need to go.’

He didn’t give me a citation [for speeding]. I sat there. It was strange to me. More and more since I didn’t get the citation I realized that, or I felt that, it was strictly an issue of race. I didn’t even know why he pulled me over. Initially, it’s not that I was speeding. I didn’t know what that was about. I did eventually call into the station and I asked if that was a standard question. I was told that if the officer felt like that was something -- I guess in the context – then that was a question that would be asked. I didn’t think there was anything about me that would give off the impression that I had drugs or weapons in my car. Even now, just talking about it...just evokes this passion or something within me that is like – wow, this did happen to me.

Kimberly has a direct confrontation with institutional power when she tells the officer that she has the authority to document the way he is representing the state. The exchange also places Kimberly firmly in the citizenship realm as she invokes her rights to hold the state accountable for its actions. Following the officer's reassertion of authority and escalated coercion, including a threat to leave Kimberly on the side of the road, she acknowledges the power of the state in law enforcement encounters ("...there might be a lot of things you can do...") but rejects the overreach of the law that the officer is describing. She is clearly self-defining the situation and rejecting the whiteness as authority construct by telling the officer what will be taking place.

In the second part of this excerpt, placing herself firmly in the citizen mode, Kimberly goes through formal channels to better understand the nature of the stop that obviously affected her deeply. Her eventual inquiry to the higher ups in the department about standard policy is a direct call to the equal treatment under the law mantra of citizenship. Self-reflecting, Kimberly remarks that there wasn't "anything about me" that would signal illegal activity. Finally, she expresses some amount of surprise that the incident occurred and is struck by the level of emotion recalling the incident conjures up in her. Accountability, a primary component of the citizen-state ideal, is a major concern for many of the respondents. In the dominant narratives, it emerges in various ways, including direct calls to hold the state accountable to more subtle struggles to reconcile the citizenship ideology with experiential knowledge.

Another respondent gave an account of a humiliating and physical encounter with the police, occurring in front of his new bride, that also goes to the issue of state

accountability. After a lengthy encounter with a Latino officer and his White partner, Carlos, a Latino in his 30s with a graduate degree, did not receive a ticket.

He does not give me a ticket. I lose it. I demand a ticket. I want a ticket with his name, his badge number. I want all of that. He gets in his car and starts writing some things and takes off. I'm left there with who was he? I was so upset...I wanted a ticket. He wouldn't give it to me. I was willing to pay \$80 or \$100 to get his name and badge number. But he wouldn't give me that justification.

Carlos has a direct confrontation with the institutional authority of the police by demanding a ticket. Comments from Carlos that follow bring up another element of the traffic stop event that is likely only evident through a qualitative research approach. Not receiving formal documentation of wrong doing following a traffic stop may *support* the view of people of color that the stop was unwarranted (Withrow 2005). Citizenship theoretically entails protections against governmental intrusion. Minorities who are unduly interrupted in their daily affairs through criminalization processes like racial profiling may desire official notification of the intervention as a way to mark the individual officer's record – an issue of accountability from the state and resistance. The absence of official documentation of a traffic violation signals to the minority motorist that earlier suspicions the stop was racially-motivated are substantiated. The traffic stop, innocuous as it appears to some, is a micro-level occurrence that demonstrates the state's reach. His demand is a way to hold the state accountable for the intrusion, both as a way to personally mark the record of the officer making the stop and to make a statement of opposition. Later, he says he is a changed man because of the incident.

In the excerpt below, Carlos describes an array of identity concerns that emerge in the wake of a racialized traffic stop.

It upsets me because you know as a veteran and a college student and whatever I think I am, um, that someone could look at me and the way I'm driving or the way I'm dressed and instigate a situation by pulling me over and stopping me from what I'm doing. I consider myself busy and with a purpose. I'm stopped for no apparent reason and not given a ticket. It does upset me. I know what they're looking for...I know what they want and I am not that person. Yet, when they profile me, they think I fit this mold. I will pull him over and I will find something. It gets very upsetting because it's harassment. That's what it is. If you've never been in that situation, then you don't know what it feels like. And if you're not angry about it, it's because you've never been in that situation. This repeated situation.

Carlos engages in credentialing – making note of the various identities he holds – to position himself as someone who is showing commitment to society and holding up the ideals of citizenship. The identity of shadow citizen thrust upon him because of his ethnic status is difficult to reconcile to his own self-identification and points to the *twoness* theorized by DuBois. The criminal identity imposed by the state via racial profiling is rejected (“I know what they want and I am not that person.”), yet the toll of being criminalized is not denied. His narrative also points to the experiential quality of racial oppression and how the experience provokes resistance.

Carlos's account is unique because the main officer in the narrative is not White but a co-ethnic. There is some research on police culture suggesting officers of color may also engage in racial stereotyping once acculturated to institutional norms. Another respondent, Diana, a Latina in her 30s with some college, relayed an encounter with a White officer who she describes as treating her poorly. I asked Diana if the negative encounter shaped her general relations with law enforcement.

I don't think it is an isolated issue because this guy was just, he was just serious. I think that over the years, I've ran into several cops in my life and I have met some real jerks – some real horror stories. Then there are some nice cops, really nice cops. I've even had an Hispanic cop treat my Hispanic sister

like crap. I mean so horrible like – you’re just a woman, we don’t care if you are having marital problems, we don’t care. I mean that’s the attitude he gave her. I think about them doing it to their own people. I don’t know if they just think they’re...just because they are cops they can get away with it.

This example and the following both point to the strong influence of the white racial frame on all members of American society, even people of color (Feagin 2006). Carlos’s remarks on the issue are informative as he contextualizes it within the broader realm of white supremacy: “He also was showing off. He was demeaning. I felt this Mexican man was demeaning me in front of this white man. That’s exactly what it felt like. It made the situation so much more embarrassing. I have enough battles with white males and authority figures that I don’t need someone who looks like me with a dumb country accent...with my last name...to belittle me.”

Another indication of resistance in Carlos’s narrative comes with his attempts to make tangible, political changes in his life following the encounter: “When I got back, I went on-line and found information about MALDEF and ACLU. I didn’t do anything but I got educated. So I felt empowered. The more educated I become, the more empowered I become. I demand you give me a ticket when you pull me over. I do make comments and they’re not nice. I have made comments like “Are you pulling over white people today or is it just Mexicans?” In this excerpt, Carlos not only indicates he has made tangible, political changes in his life, but also offers direct resistance to the state by demanding a ticket and throws off the white supremacy ideology by inserting the issue of ethnic status into his encounters with the state.

Jesse, a Latino in his early 20s with some college education, provides another example of how the instance of not receiving a ticket may be viewed as evidence that the

traffic stop is race-based. In the exchange below, he also invokes the 'out of place' doctrine by acknowledging that there are certain social spaces where his freedom as a citizen is limited.

J: I've been, all over this city, pulled over. I've kept count too – I know where not to drive. I've been pulled over eight times and I've only been given a ticket that one time. I already know the routine. They pull me over, they grab my license, I guess they run my license for warrants, and they just let me on my way. It's pretty blatant.

K: So you're not ticketed for anything – they're not saying you're speeding?

J: No, I'm not ticketed at all.

K: So this happened about eight times over the course of...

J: One year. I've only been here a year. I haven't even been here an entire year.

The experience of not receiving official documentation of an offense worthy of being pulled over is significant for Jesse and others who adhere to the idea that if they have not committed a meaningful enough infraction to be ticketed, why have they been subject to this intrusion by the state?

Edgar, a Latino in his 20s with a bachelor's degree, discusses the explicit nature of criminalization found in racial profiling processes. An underlying assumption framing the comments below is that there is an expected, theoretical neutrality of the state – a mainstay of citizenship -- to which Edgar's experience is contrasted.

I guess the worst thing about racial profiling when it comes to law enforcement is the fact you hear them actually -- they admit it. That 'we do.' 'We are looking for Hispanic males driving this type of car. . . . driving a nice car.' They just flat out admit it. I took a course at [the university] and we did see several video tapes that were fairly recent and the cops themselves admitting it on tape. Their name there, badge number -- it was almost like it was accepted. That is was an unspoken thing that without doubt we do racial profiling. It's pretty disconcerting. I'd even say I felt it a couple of times. If you've never felt it before, you don't know what it feels like. For me, the first time it was almost like, I was confused. I'm like, man...is what happened...did what happen just

happen? It was one of those things that, you know, this has never happened to me before. It happened a second time and I kind of realized it. Wow, this is pretty messed up.

You get that tense feeling That's not the way it should be. We should be able to look at them like they are my friendly neighborhood cop, you know, or Officer Friendly.

Edgar expresses disbelief about the overt way criminalization of communities of color may occur. He points to the experiential quality ("If you've never felt it before...") of racial profiling. The struggle with reconciling his underlying belief in citizenship with what he has come to experience himself is evident. Edgar has a sense of how his relationship with the police is theorized to operate, yet understands the relationship is different in practice, thus exhibiting the *double-consciousness* experience of many people of color.

One construct of citizenship is the contractual agreement that citizens give up some aspects of freedom in exchange for some aspects of state protection. In the following, Edgar offers insight into how relations with the police affect the theoretical reciprocity amongst citizens and the state. Edgar explains the basic disconnect from the citizen-state contract that he and others experience as a result of negative police-minority relations. Because the social contract operates as a trust of rights and powers (Mills 1997), when it is broken through racialization and criminalization processes like racial profiling, non-state actors experience disenfranchisement.

I see it also as a betrayal. We as citizens put our faith in to people like that...we see them as the ones that are supposed to be protecting us. That's their role. When that's gone, it's almost like I've got to fend for myself. There's no one out there that's on my side. There's no one out there...I know for some people I've spoken to, my family, cousins, they say they have no one else to rely on. It's...if I get into trouble I couldn't depend on you all. I couldn't do it this way. I couldn't call the cops. I couldn't...whatever the case may be. It's almost

like you have to fend for yourself now. Yeah, they're there. Yeah, I see them driving around but you know what, last time I called them or last time they treated me this way so why bother? You might even go so far as to say that's why people take the law into their own hands. I'll settle this my way. I can't depend on them. They've failed me so many times before.

Edgar's use of "betrayal" is significant because the word denotes a relationship and trust that is broken. He places himself directly in the citizenship realm by identifying himself as a member of the citizenry ("We as citizens...") and states an expectation that part of the state's responsibility is protection. Implicit here is a recurring theme that the state is held up as a protector and defender of rights yet causes harm to the citizenry through criminalization processes such as racial profiling. The bulk of his narrative concerns the very practical ramifications for communities of color when they can no longer rely on the state because of shadow citizen experiences.

Similarly, Carlos argues distrust of the police due to marginalization of citizenship creates a practical concern of safety for those in need of state services: "What are your resources after that if you don't feel like you can call? You don't feel like something's going to happen. What if...another Hispanic person calls in distress to you and your family? What's going to happen? This is a tough situation we're in."

I asked Carlos how he and his family and friends explain and deal with their experiences with the state. He responded that some of his family tell him to try to 'get over' things because that is how they have handled it historically and there is a sense that they get used to the treatment. I asked him to expand on this line of thinking:

I say it's because we're really not Americans. Let's just call it that. We're really not. We're not European. We're not a certain size and eye color. We don't look – even when I went to Panama they said 'you're American? That's not what an American looks like – I see them on TV all the time. I know

that Americans arrest Mexicans on TV...but Americans look differently. They don't look like you.' That's the image we're sending out to all of the countries. Well guess what – that's the message we're sending to ourselves. I think because we don't look American – whatever that means – we don't have the same rights. We know that.

Carlos explains that the link between citizenship and whiteness is obvious, given his experience, and those who fall outside of the white bounds of citizenship experience limited rights and protections. Although Carlos was one of the more vocal and authoritative respondents when it came to the resistance theme, he indicates that the repeated criminalization of communities of color may have a damning, internalizing affect on interactions within the communities.

Jesse, a Latino in his early 20s with some college, invoked the citizenship discourse and the limitations of rights and protections when I asked him to define racial profiling.

I think about the unequal treatment by the police. I think of abuses of power by the police...by abuse of power, it goes more than just overstepping their boundaries. I believe it also deals with not informing the people that they have certain rights, certain liberties. For instance, sometimes cops, they won't let you know that you don't have to do certain things...and you'll just do it. Most people are unaware of most of the laws -- they just let the police do it. They let the police step all over them because they have no idea of the law.

In the above excerpt, Jesse suggests that the state has an obligation not to take advantage of citizens who may not be fully aware of all of the rights and protections theoretically ensured them by the Constitution. While somewhat unique in relation to other criticisms of how the state operates racially, Jesse is pointing out another dimension of state overreach and lack of accountability. Specifically, the issue that he refers to is the consent search. Many citizens are not aware that they have the right to

refuse a search of their vehicle if asked for a search by law enforcement. Thus, because communities of color are disproportionately stopped by the police, they are also subject to increased searches (Withrow 2005). (The issue of whether contraband is found in these searches is a null issue for my purposes here.) Indeed, the consent search issue has garnered enough attention that there is some discussion among the legal community about the establishment of a *Miranda*-like warning to inform motorists about their right to refuse a search request (Withrow 2005).

Jesse explains how the limitations of citizenship and corresponding opposition to the oppression can shape communities of color view of the system.

Well, if you get angry about it, either A...you get...if it is destructive anger...I got this chip on my shoulder. It is not pleasant. You think everything is done by the man. All this stick it to the man and all that stuff. None of that really works. You can make it productive, you can take that anger and go do the right [thing]...We live in a bureaucratic system. If you want change, there's bureaucratic ways to do it. You've got to do it and frankly it's hard to do it. We're still going through changes but you know, we are making changes.

Jesse describes himself as resistant to the injustice he experiences as a person of color and how his anger towards white supremacy can be both crippling and enabling, depending on how one uses the energy. His account points to a sense of obligation to the collective community, pointing to the personal troubles are politically constituted mode of resistance Collins discusses. Within this context of a collective community and a "bureaucratic system," Jesse makes a call to others to make changes in the citizenship realm, stating that it has to be done and will be difficult.

Another respondent who was particularly resistant to racialization and criminalization processes and whose community activism centered along relations with

the police in her community was Angela, a Black female in her 50s (she did not offer her educational background). In the following, Angela is following up on a story she relayed about mistreatment by the police and how she went up the chain of command for accountability, thus resisting in a direct confrontation with institutional power, in addition to making tangible, political changes in others' lives: "I myself, the way I was raising my children, I voiced that opinion to them a lot. If something comes up with a police officer, and they feel like they can't talk to that police officer, they have a right to ask for their superior. Because everybody has a boss. That's what I teach them."

Darrell, when asked about resistance to racialized policing, focused on how knowing one's rights takes center stage. Darrell understands that in a parallel universe of citizenship, when the state does overextend its boundaries on rights and protections, mechanisms exist to hold the state accountable. In the segment that follows, he shares his thoughts on options he felt he had to deal with a police officer with a history of harassing him and his friends when he was young. Darrell's comments highlight the many facets of accountability. Once an incident of police misuse of authority or force occurs, the shadow citizen realm that many minorities experience does not automatically mean that the 'injustice' will be addressed. In addition, Darrell informs us that the repercussions in those rare cases when justice does prevail complicate feelings of 'justice' that might otherwise arise.

We converse about it. Debate what is best... our recourse. As teenagers, of course, how much influence could we have? We knew our parents had more. We spoke with our parents. You're looking at children who already had strikes against them being young, being black, being in not the most impoverished neighborhoods but one of poverty, definitely. You're looking at children who are like, we'll tell our parents. They're going to go complain, they're going to

have the fallout for the complaints that they've made. You're already able and mature enough to understand that sometimes that's how things work. My mother goes and says something and they are harassing her. My father goes and says something, they're gonna harass him. Like I said, those ills, those social ills are already in place to where they have stolen our mental freedom to where we already knew. If we complain, it's going to get worse! If you say something, it's going to get worse than it was before. It came to the point, for lack of a better word, we developed tolerance for it. Put up with it. We never liked it. Never enjoyed it, not one bit, but we dealt with it. That's just, that's life for us. In our world, anyway.

If they are held accountable, what about the repercussions afterwards? I still live here. My family still lives here. It's terrible. Like I said, that goes back to freedom. For your mind. It's very hard to walk around your town for God knows how many years, knowing that if you've had something go down with law enforcement officials, and it's gone too far and it does pan out in your favor, they're held accountable. . . . I still have a small victory from the war. I've won a small battle but on the front lines, they're still kicking butt. I'm taking too many casualties. That's how it is. That's still winning. Resources for them are more available. . . . That's how I feel. It's a very oppressive feeling, you know? As if, well hell, they're not going to get anything anyway. Nothing's going to happen to them. I can complain. I can moan. They're not going to do anything but take the public relations route and wiggle their way out.

An examination of Darrell's use of metaphor offers insight into how the struggle over rights, protections, and accountability in police-minority relations manifests.

Darrell engages the discourse of warfare to illustrate how the relationship is sometimes experienced as combative in nature. The officer who made the initial arrest, and with whom Darrell had a history of harassment, was let go from the police force a short while after Darrell's arrest. Darrell describes this development as "a small victory from the war." He tells of how he feels as if he were "on the front lines," and "taking...casualties." Even though he linked this officer's departure to his unsubstantiated arrest, Darrell still views the state as "winning" in the long run and remarks on the "oppressive feeling" he has in this context. Outside of the shadow citizenship realm where Darrell's experiences lie, citizens are less likely to experience

the state as a formidable opponent with which they associate the “front lines.” Indeed, in the racialized dual-world of citizenship, when warfare discourse is engaged it is generally in the context of state efforts at the protection of the citizenry.

Darrell’s view that one of the hallmarks of citizenship – accountability – is out of reach for many people of color prompts a passionate response when asked about the responsibility of the state in addressing injustices.

Nothing’s going to change. Nothing’s gonna be done no matter how much we rally, you know. No matter how much we speak up and protest. There aren’t going to be any repercussions. So I believe, just to give a flip on that, as individuals, we need to be more accountable for ourselves and our actions. Just try our best to stay out of harm’s way when we’re in those situations. I’m not saying that we can avoid the other variables when we’re stopped and we’re seething. I’ve been there! I’ve been there to the point where I’ve been seething so bad that they called backup, so I know. When you’re in those situations just try to stop that effect because you already know the deck of cards are stacked against you. Be accountable for your actions because it’s not that they aren’t going to be caught in the act of going too far on their end or whatever but the chances seem so much less on their end, you know, as far as them being held accountable for their actions and the individual being held for theirs. They’re the law. Accountability? Accountability for who? For who? Not them especially.

Darrell continues with the line of thought regarding the layers of protections assumed in the roles of the family institution and the state. *Parens patriae*, the concept that the state is bound to look out for the well being of its citizens (particularly the young), is invoked though obviously overridden by the shadow citizen role that Darrell views himself in.

Your parents are your first line of defense when you’re born. Those individuals are your first line of defense as far as protecting you and sheltering from harm and teaching you rights and wrongs of society. Then you have laws in place by man of course to help keep peace in society. It’s that structure. When you get out of the house when you get older and you finally go out onto the world on your own, you’re out of your parents’ and guardians’ protection. Here you are dealing with the world on your own as an individual, an

independent individual. You run into so many things that you couldn't have been prepared for by your parents and guardians. It's just -- it's nerve-racking. It's truly psychological warfare. They, whoever they are, who put these laws in place, who put these regulations to critique people's appetites for more freedom or for 'comfortability' in their freedom already -- they're winning.

Carlos explains how the use of force entrusted in the state becomes a concern under racialization and criminalization processes like racial profiling. He makes a connection between everyday race-based behaviors, i.e., "it is across the board..." and race-based behavior on behalf of agents of the state authorized to use force.

It is wrong. It is very much discriminating to profile according to race. And it is across the board...The problem is with police, it goes from being wrong to potentially being deadly. They are an authority. They have weapons. They have the right to use force and they could justify all of their actions. I think that when police and men in those situations in authority use that, it could be very dangerous. Especially to minorities.

As noted, another aspect of the citizenship realm that the respondents engage is the notion of the collective. There is a sense of concern for other people of color who are subjected to racial profiling, thus, in a pure sense of citizenship, these respondents are able to look beyond their own personal experience when examining the issue. In the excerpt below, Carlos comments on status markers that may facilitate racial injustice.

We're not a great pick of the community. We look differently, you know? We're educated. You look at the community and the guys maybe look differently. They have tattoos that are very visible. They dress differently. They have stories about getting pulled over and getting pulled out of the car. Every time. What do they do? It's upsetting because I don't want to be treated like that. I certainly don't want my son treated that way. I will do everything I have to and if that means donating more money to police departments to get a sticker... That's what I gotta do as ridiculous as that sounds. I don't really wanna.

I don't want to take the easy way out. The power, the authority and their guns...then they have their own chips on their shoulder. They're upset with things they see. They get to go out [and] take it out on us. They know that. They're not gonna pull that white kid out and mess with him. They're not

because he has a job, he has connections, and he might know someone who he might tell. Let's say another 15-year old is pulled over. Who is he gonna tell? He's already been in trouble. The judge knows his name. They know who they can -- every now and then they mess it up. They cross the line. That's when you hear about it on the news. I'm saying I think this happens way more than we even think. They are select targets. . . . It's just upsetting. We're striving to get better and get educated.

His concern is not limited to himself or even his young son but goes to the broader community of color who are subject to criminalization and racialization processes by the state and he expresses clear concern about accountability. He argues that there is a differential enforcement of the law which goes against the citizenship ideals of equal justice. Carlos also recognizes that his adherence to the citizenship ideal, becoming educated and the like, is not a protective mechanism against anti-citizenship practices.

Hector, a Latino in his 40s with a high school education, engages the justice and liberty rights frame as he espouses an ultra-patriotic discourse verging on hyperbole to frame his discontent with the citizen-state relationship he experiences: "I know I'm an American because I was born here. I went to school here. I was educated here. I'm as American as anybody else. Red, white, and blue -- that's all I bleed. For them to come up and question me as far as that...I'm not a citizen of the United States. I'm disenfranchised!" Later, he again invokes the term "disenfranchised," defined as a loss of rights and protections, and says that his experiences make him feel like he is "not a part of this country." As with other respondents, throughout the interview he is credentialing and self-defining the situation by rejecting the criminal identity imposed on him by the state.

When people of a different race, particularly white police officers in this town, look at me and see my tattoos, they automatically assume that I've been to prison, I'm involved in a gang. They don't look at me as the human being that I am. I go to church every Sunday...I'm a member in good standing. I own a business and it is in good standing. Unless they...they don't realize...they automatically assume because I'm Hispanic and I have a tattoo that I'm either dealing drugs or hanging out with a gang or just got out of the pen.

Jerome, a Black male in his 40s with a graduate degree and a former police officer, also tells of how living up to citizenship ideals does not necessarily mean the state will fulfill its part of the social contract that ideologically binds the two entities. While this particular incident is not specifically about a traffic stop (he says elsewhere in the interview that he has had dozens of stops over his lifetime), it is about criminalization processes in the Black community. He tells of an encounter outside of his home in which a police officer responding to a possible prowler call mistakenly targeted Jerome, going so far as to unsnap his gun holster (an official 'use of force' action in many jurisdictions) as Jerome was taking out diaper-filled trash bags from his new born daughter.

My hands was holding two trash bags full of doo-doo. Manure. Trash. I dropped it. How could I be having anything in my hand? You read about Black people getting shot -- they didn't have anything in their hand! A lot of White officers are scared of Black people. They need to have some kind of sensitivity training to deal with us. We're not animals. If we live on the southside, we have to get there through work, education, class, social economic -- whatever you want to call it. By me talking about it, it makes me really mad because you read about justice for all. It's not justice for all. That's what really saddens me about America sometimes. No I don't want to move another country. I love America. I was born here. But I'm saying we have a lot of flaws and until we straighten out those flaws, it's going to continue to be like that.

Jerome counters the criminalization process that he encountered with knowledge about how police-minority relations can operate. He invokes his own view of

citizenship and engages in self-definitions and self-valuations through his reference to working hard – playing by society’s rules – to get where he is today. His criminalizing encounter with the officer quickly goes beyond the mere incident itself. Jerome’s concern with “justice for all” points to a clear engagement of the citizenship realm as it relates to the collective effects on communities of color and as an overriding ideology that does not meet its high standards in practice.

Another dimension about the collective experience of communities of color is expressed by Francis, a Black woman in her 50s with some college education. Like several of the respondents (particularly female respondents) who have young sons, her concerns about the experiences young men of color are having with law enforcement in the contemporary era take center stage. This reflects how part of citizenship is recognizing the broader social context one belongs to. For people of color, personal experiences like a racialized traffic stop can only fully be understood within the broader realm of minority status in a White-dominated society. In the excerpt below, Francis is responding to a general inquiry about instances where racial and ethnic status figured into an encounter with law enforcement.

I’ve seen incidents where policemen have searched, looking for one person, and have really searched the whole group of Black boys when they claim they are looking for one . . . that they are not looking for this one certain person yet still they are...having them all against fences and things which kind of upset the Blacks because we figure they wouldn’t be doing nobody else’s child like that. I’ve had incidents where they’ve all, the children, have told us about how police treats them, talks to them, kind of demanding and making them say things they didn’t want to say...which is also against us because mostly we feel like...they’re picking on our Black kids.

Part of the reciprocal nature of the relationship between the state and the citizen lies in the autonomy of the individual, though there exists a duality with the simultaneous concern for the individual and the collective that the individual citizen is situated within. Francis's remarks that the "whole group" of young boys is subjected to state intervention via a physical search demonstrates the criminalization of young, Black male youth as a collective and how they are not extended full individual protections from the state. Francis directly frames the citizenship issue in the context of unequal treatment by the state – "we figure they wouldn't be doing nobody else's child like that." She also informs about coercive techniques employed by the state when dealing with young people in her community. Francis views this behavior as unequal treatment under the law and as a direct reflection of the state's broader treatment of communities of color. Clearly Francis possesses the double-consciousness and insight DuBois describes as characteristic of communities of color.

In the following, Francis prefaces her observations on the experiential nature of racial inequality by engaging the citizenship discourse.

I know you got to respect the law but I don't think it takes all of that to get your point over or to make them (the citizenry) respect you Matter of fact, they got me to where I don't want to support them in nothing they do...because when you look at it, they are so rude, so rude. Other folks talk about how they do When we go along with what we hear, what we see, what we are experiencing with our own kids...we don't, we just don't like it It's just something I wouldn't want nobody to go through and I can't really see how anybody would have a heart to do this (emphatic)...when all kids – whether they are Black, White, Yellow, Green – whatever color they are, male or female...I just can't see nobody being treated like this.

The experiential nature of racism is evident in Francis's comments about 'hearing, seeing, and experiencing' racialized encounters with the state. While less

directly engaging the discourse of citizenship, the underlying concern is very much one of equal treatment under the law. The account from Francis also reflects a general pattern in the data that the female respondents were less able to discuss personal experiences with a racialized traffic stop than they were able to discuss more general racialization and criminalization processes in their communities. Clearly, this is a reflection of the racialized and gendered nature of racial profiling.

As noted, one aspect of the citizenship discourse concerns the ‘contractual’ obligations present in the citizen-state relationship. Individuals who show what Hirschi classically refers to as commitment to society and indeed who show conformity to society are ideally given, in exchange, certain grants of citizenship. Victor, a Latino in his 20s with some college education, discusses how stereotyping processes associated with racialization limit his access to citizenship.

If you’re Black, a lot of people will think that you’re just a thug, that you listen to rap music. They’re going to pigeon hole you into a particular box. If you’re Hispanic, you love Tejano music or any of that sort. There are certain ways that people look at you. That you are lazy. That you are a procrastinator. You don’t want to work. That you just want to come over here and abuse the system. That’s not it at all. I was born there. I was a migrant worker. I joined the military. I became a United States citizen. I graduated high school. I’m going to college. I’m not living off the system. I’m a prime example of what we don’t want to be. We want to be looked at as individuals. Everybody does, no matter what color or race you are. But you’re still in a society that is not willing to let go.

In this excerpt the linkage between immigrant status and citizenship is evident. For Latinos, there is an added dimension to fulfilling the ideals of citizenship. Many Latinos not only experience shadow citizenship treatment from the state in the more abstract sense of not receiving the grant of substantive citizenship, but are also subject to

very practical nativity concerns about foreign-born status. Victor lists many of the stereotypes identified with Latinos then counters those representations and self-defines with his personal experiences that engage all of the ideals of citizenship.

At another point, Victor discusses how these criminalization processes interfere with his everyday life. He relays a story about returning from a movie with his light-skinned Latina girlfriend and his younger, dark-skinned brothers in the car. After being stopped by the police and having his future-wife asked to get out of the car, Victor gets no response from two officers when he asks what is going on.

When my wife came back into the vehicle, I asked her what was the problem. She explained to me that the other police officer had stated to her that there was a call made by a girl, a white girl, that there was four Hispanic males threatening her that they were going to kidnap her and rape her. I mean that's – it just made me so angry. I was in a neighborhood where not very many white people live, for one. Just to deal with that first hand was kind of weird at first. I didn't feel too angry at the very beginning. I felt maybe they just made a mistake, an honest mistake, because she looks a certain way. Regardless, towards the end, it was a feeling of anger and like it wasn't right for them to do that. There was no probable cause.

During this part of the interview, Victor was noticeably upset. Although he doesn't question the somewhat outlandish story given to his girlfriend about the reason for the stop, his account makes clear that racial and ethnic concerns shape his everyday encounters as he comments on the skin tone of the actors involved in his story, describes the racial surroundings of the encounter, and questions the motivations of officers by initially giving them the benefit of the doubt. Yet, upon reflection of the incident, he invokes the citizenship realm by his claim that it “wasn't right” for the officers to make contact because of the lack of probable cause. Invoking this Fourth Amendment canon is a direct call to citizenship and justice and liberty rights.

Evident in Victor's narrative is a sense that although many people of color may have expectations of limited citizenship by the state because of experiential racism, they are not necessarily prejudging encounters with law enforcement ("I felt maybe they just made a mistake..."). Another example comes from Manuel, a Latino in his 40s with some college, who was recently released from prison after being incarcerated for a number of years. Throughout the interview, Manuel returns to the idea that concerns he has about law enforcement and racial profiling were unfounded. Because he had a criminal record and thus was guilty of criminal behavior in the past, Manuel thought he may be paranoid about the criminal justice system and that the police are not really targeting him because of his ethnicity. Subtle references to living up to the ideals of good citizenship – showing commitment to society among them – however, indicate that Manuel views his post-prison life as one in which he demonstrates the traits of a good citizen yet experiences marginalizing treatment from the state. In the excerpt below, Manuel has just given an account of an encounter with law enforcement in which he believed the officer indicated Manuel did not "belong" in the area. I asked him about the experience of the 'out of place' doctrine that shapes police-minority relations.

I think it gives me an attitude of wanting to rebel. 'Cause I'm like...I'm trying to do right, right? Like I told you where I came from and what I've done. But even though I'm trying to do the best that I can, there's always something that's gonna try to pull me back. I catch myself wondering – what are you talking about? What am I doing? In other words, it gets me mad 'cause...here I am just trying to be cool, go about whatever I'm doing, whatever I'm doing but I stick out like a sore thumb. So I've got to catch myself sometimes and I got to say, hey, whoa.

Pam, a Black female in her 30s with a college degree, focused most of her comments on an issue that had filled up much of her time over the previous several

months – the incarceration of her brother. Convinced her brother was convicted unjustly because of issues of race and socioeconomic status, Pam and her family enjoys the support of the Innocence Project on this case. While this respondent's narrative is not directly one about the effects of a criminalizing traffic stop, Pam does offer insight into the more general processes of racialization and criminalization in the criminal justice system that undermine the citizen-state relationship. In the following excerpt, she responds to a question about her relationship or view of the police prior to the situation with her brother.

You know I've never been in a situation to even think about it but if I can reflect back I probably think I just gave them the benefit of the doubt. Whatever happened – those people are guilty, they found them guilty. That was my attitude on it pretty much until I actually had first hand experience with it [racism in the criminal justice system]. I would normally say it is a crutch people were using just because it didn't turn out in their favor. Then I experienced it first hand.

Pam provides an example of how communities of color do not have a monolithic view of the criminal justice system and that their views are understandably dynamic. This is in contrast to some of the discourse surrounding communities of color and crime that characterize minorities as somehow opposed to 'law and order.' Pam's remarks also suggests that she had adopted some of the ideology surrounding racism – that people of color may play 'the race card' when things don't go their way.

Another respondent also focused her remarks on the incarceration of a family member. Barbara, a multiracial woman in her 50s with some college education, expressed great concern about the quality of legal representation her son received on the heels of very minimal and circumstantial evidence that brought him to trial initially.

Barbara described the operation of racism in the post-Civil Rights era as “sneaky,” and “so good at hiding,” particularly in the legal realm: “It’s nothing that you can pinpoint. It’s nothing that you can say definitely. It’s a feeling, it’s a hearing... If you could prove this, then there wouldn’t be a problem. But you can’t prove it.”

I asked Barbara if prior to the situation with her son and the criminal justice system, she believed in the criminal justice system and its ideology of equal justice.

Oh yeah. I was very trusting. Very, very trusting in the system -- and verbal about it. I was here to say that we have the best system in the world because of our Constitution. Because it says that you are innocent until proven guilty and that everyone has the right to a fair trial. I believed all of these things. They taught you all of this in civic class and this is the way the law is. Being naïve to the law, I accepted it. I don’t accept it now.
 I was a good American citizen. . . . I look at so many things now so differently. I look at everything differently. It’s not the same world. I’m not the same person. Sometimes I think I want to be that Barbara again but...no, I don’t because my eyes were closed because I believed. I believed we have a good system and we don’t.

In these excerpts, Barbara supports the earlier view of Pam that communities of color do embrace the justice and liberty frame characterized by the ideology of democracy, citizenship, and freedom. Again, DuBois’s concern with double-consciousness is evident: people of color generally hold firm to the ideals of citizenship, understand that it is due to them, yet simultaneously recognize that in practice, full citizenship is often denied. Barbara explains that she viewed the criminal justice system as one about fairness and embodied in the Constitution. She clearly links her prior view of the system to early socialization processes. Her self-identity as a “good American citizen,” however is shaken when she experiences the break from citizenship emergent in racialization and criminalization processes inherent to the American criminal justice

system. The lenses of citizenship changed for Barbara, both at the micro (“I’m not the same person.”) and macro (“It’s not the same world.”). Although this example is not directly related to racial profiling concerns as they manifest in the traffic stop, it encompasses the fundamental issues – racialization and criminalization -- of racial profiling. Barbara also demonstrates resistance to the racism she and her family encountered by refusing to continue to accept the justice and liberty frame that had shaped her view of the system.

Chapter Summation

This chapter demonstrates that the personal experience of people of color in racialized encounters with law enforcement go well beyond the local, micro-level association focused on in the current racial profiling literature. My respondents clearly reflect on these encounters as racializing and criminalizing experiences with the state that are experienced as watershed moments in their lives. The overarching theme that emerges from their narratives is one of a break from citizenship and the liberty and justice rights frame that encompasses it. In other examinations of how race operates in the criminal justice system, this process is referred to as an “attenuation” of citizenship (Pettit and Western 2004). Western (2006:193), in his examination of the role and effects of status differentials in regards to incarceration, views the effects of race and socioeconomic status as an “evolutionary” aspect of African American citizenship because of the *retrenchment* of citizenship that results from disenfranchisement and wage restrictions resulting from incarceration. Yet, as shown by the active and frequent engagement of the justice and liberty rights frame that many of my respondents engage,

many of my respondents continue to make claim to the citizenship realm and resist the denial of full citizenship by the racial state. Writing in the late 1800s, DuBois (1986:364) described this same struggle to reconcile the “warring ideals” of minority identity and citizen identity imposed by the racial state with the self-identified sense of being a full citizen.

The narratives in the current chapter build on this idea of resisting the shadow citizenship identity imposed by the state. Through an analysis that primarily engages Collins’s work on resistance strategies, I show how my respondents incorporate both direct and indirect modes of opposition to racial profiling processes inherent in the racial state. A hallmark of the resistance is critical consciousness and insight into the ways of a racial state. While the current racial profiling literature approaches the notion of citizenship superficially via the ‘procedural justice’ framework concerned with treatment during traffic stops, mainstream criminology has yet to examine any aspects of resistance to racial profiling that emerges as a dominant narrative from respondents in the current study.

Vicarious experiences are also important to the experience of racial profiling and criminalization via contact with the criminal justice system more generally. The next chapter will pick up this theme as examination of ‘vicarious experience’ is the other main factor mainstream criminology forwards as determinant in what makes individuals ‘perceive’ they have been racially profiled. I examine qualitatively the meaning and lived experiences behind the ‘vicarious experience’ variable by an initial theoretical

engagement of panopticonism and double-consciousness, followed by incorporation of the concepts of collective memory and ‘the lesson.’

CHAPTER VI

PANOPTICONISM, ‘THE LESSON,’ AND VICARIOUS EXPERIENCE

In this chapter I lay out a way of contextualizing three issues central to any examination of the racial profiling phenomenon. As discussed in Chapter II, I theoretically place racial profiling process in the panopticon realm. Characterized by a consistency of patrolling, surveilling, and monitoring, Foucault’s (1977:201) panopticon subjects individuals to “...a state of conscious and permanent visibility that assures the automatic functioning of power...the surveillance is permanent in its effects, even if it is discontinuous in its action.” Foucault’s conception of panopticonism, as argued earlier, is an appropriate backdrop for contextualizing racialized traffic stops and the more general idea of the criminalization of communities of color. The obvious connection concerns the foundation of racial profiling processes: the omnipresent eye of the state on communities of color, especially young minority males. The panopticon effect, as discussed, also includes a permanent change in the individual under its effects to where views of the state (as embodied by the panoptic processes) become alienated from previous neutral or even positive standpoints. The narratives from Black and Latino respondents point to a shared experience or commonality in regard to these unjust encounters with the state.

Double-Consciousness

Constant awareness of surveillance and evaluation is also germane to the concept of *double-consciousness* by DuBois (1986). As discussed in more detail in Chapter II on the conceptual framework engaged in the current study, DuBois argues that people of

color experience a special awareness or consciousness of their placement in the racial order particularly as it relates to the citizenship realm. Citizenship, as described in the last chapter, ‘incorporates’ whiteness, as evident historically in the Three-Fifths Compromise of the U.S. Constitution and the *Dred Scott v. Sandford* decision by the U.S. Supreme Court (Berry 1994; Cook 1999). As the panopticon effect consists of an awareness of power dynamics and “permanent visibility,” so too does DuBois’s notion that minority identity, often visible, is not reconciled with citizenship identity in the eyes of many Whites and the white-dominated state. This contradiction between identifying as a person of color yet having full citizenship denied, also creates this awareness of (racial) power dynamics. Therefore, in the following analysis, DuBois’s double-consciousness is ever-present under the panopticon effect as extended in the current study to the racial profiling realm.

Vicarious Experience Discourse in the Current Literature

The panopticon effect of racial profiling also provides the backdrop for understanding the two other issues addressed in this chapter – indirect or vicarious experience and ‘the lesson.’ As discussed in Chapter IV, recent works on racial profiling suggest that vicarious experiences are influential in shaping attitudes toward the police and in shaping individuals’ understanding of racial profiling experiences (i.e., have I been racially profiled?). As noted earlier, vicarious experiences include information about profiling from family and friends and may be defined as “...imagined participation in the experience of others” (dictionary.com 2007). Weitzer and Tuch (2006:19), leading police studies scholars, described vicarious experience as

internalizing another person's experience that "...may then be communicated to yet other friends, family members, acquaintances, and neighbors –amplifying the effect of the initial experience and perhaps influencing beliefs about the police within a whole network of people..." Implicit in some of the discourse surrounding vicarious experience is that an individual who has not experienced racial profiling personally may adopt certain perspectives on police-minority relations even if they themselves have not had negative experiences. In other discourses on racial and ethnic status more generally, a running theme is that if communities of color, particularly Blacks, stopped discussing slavery and other overt examples of racial oppression, then younger generations could 'get over' the idea that racial oppression is widespread in modern day America (Bonilla-Silva 2003; see also Bonilla-Silva and Baiocchi 2001 for an example of how mainstream scholarship limits the significance of race). In other racialized contexts, such as Moore's (forthcoming) critical examination of racial dynamics in elite law schools, discourse from law students of color about how the law operates racially is discounted by White students. Indeed, the currently ill-developed notion of vicarious experience in the literature engages, if subtly, the traditional complaint from Whites that people of color 'play the race card' at times when events or circumstances are not actually racialized. To extend this notion, vicarious experience is viewed as another example of 'playing the race card.' Specifically, because vicarious experience by definition does not actually involve genuine experience with a phenomenon, the inherent importance of the phenomenon is distanced and indeed diminished. From a critical perspective, vicarious experience operates somewhat as a euphemism for 'playing the race card.' Critical

examination of the focus on ‘vicarious’ experiences by mainstream researchers suggests a tendency in this direction: communities of color views’ of the police arise in part because the community collectively keeps stories of police abuse of authority alive through oral histories and neighborhood ‘gripe sessions’ that undermine what may be an otherwise acceptable relationship with the state. Examination of the process of informational exchange that does not engage a race theory lens may view this collective dialogue as limiting efforts to move beyond America’s racial history.

Collective Memory and ‘The Lesson’

The third part of the triad I’m suggesting is what is known as “the lesson” (Russell 1998). Part of the ‘collective memory’ that Feagin (2006) and others discuss as a connected, communal awareness of past racial injustices that forge and assist in explaining contemporary racial realities, “the lesson” refers to guidance and advice offered amongst communities of color, generally from older members of the community to younger generations. The guidance often comes in the form of admonitions about contact with law enforcement during traffic stops, and more generally about contact with the state. Keeping hands in plain view on the steering wheel, making no sudden movements, and being extraordinarily polite to officers in order to get oneself out of a potentially dangerous situation are critical points comprising ‘the lesson.’ While White parents and community members also instill a sense of obedience to authority and law enforcement generally, the efforts of communities of color in engaging ‘the lesson’ generation after generation suggests that the consequences of not following the sage advice are more dire than for White communities. Contemporary examples abound of

police use of force incidents with people of color that include rationalization by the police that they were fearing for their safety when later the victim was found to be unarmed (e.g. Amadou Diallo). Due to associations with criminality and violence that people of color, especially young males, encounter in society, law enforcement appears to be more willing to engage in force with minorities than with Whites (Barlow and Barlow 2006).

The three issues discussed above – panopticonism, vicarious experience, and ‘the lesson’ – all point to how racial profiling is embedded in the social fabric. For many people of color, the panopticon is a reality because of the constant patrolling, monitoring, and surveillance that shapes everyday experiences. Vicarious experiences are not simply about hearing from friends and family that injustice has occurred. From a critical perspective, vicarious experience is more about efforts within communities of color to support one another when dealing with systems of oppression, like the criminal justice system, that influence life chances. It is a way of passing on historical and contemporary realities. Specifically, ‘the lesson’ is very purpose-driven communication dealing directly with matters of life and death. Contextualizing these three issues into the racial profiling realm is important for a number of reasons. Panopticonism sets the historical precedent and contemporary reality for personal and vicarious experiences that get communicated across generations via ‘the lesson.’ Vicarious experiences may operate on some level to perpetuate historical animosities in police-minority relations but it is unlikely that these histories remain intrinsically important collectively if contemporary experiences don’t back them up. Thus, ‘the lesson’ persists as a way

communities of color guide future generations in the midst of the panopticon experience in a racial state.

The following analysis of data looks at all three of these issues together. Specifically, when a respondent comments on the regularity of racialization and criminalization processes, I consider this as part of the panopticon effect. This awareness of constantly being evaluated. It may also involve the general awareness of injustice in Black and Latino communities that is discussed, examined, and resisted among members of the community, and thus, considered part of the vicarious experience process ('imagined participation') as well as 'the lesson.'

Silent No More: The Voices of Panopticonism, Double-Consciousness, and 'The Lesson'

I begin with Darrell, a Black male in his 20s with some college education, as he introduces all three ideas in the following lengthy excerpt. As with all respondents, my initial question was for them to tell me how they defined racial profiling and what the concept meant to them. Darrell's response included the notion of freedom and I asked him to expand on that idea in the context of racial profiling.

...just to be free in general is to be unbound. To be unshackled. It doesn't matter whether that means metaphorically speaking, mentally, or physically. Just to be free means not to be bound by anyone or anything, basically. When you put that stress on individuals with certain types of laws or hidden rules that hinders their freedom. It makes their freedom even harder to be enjoyed. Racial profiling definitely does it. With me anyway, being a young man of true African American descent – I'm only three generations out of Africa. So being a young man that knows that...I get to listen to my grandfather on my mother's side and my grandfather on my father's side is still alive. These are men who have been through the storm, so to speak, and know what has happened, what is happening, and they can pretty much almost in a psychic kind of sense, tell you what will happen.

My grandfathers always tell me one, that there's no need for you to, you know, let it bother you to an extent. Moreso than it should. They want me to know that it is the world we live in. No, excuse me – it's the people in the world we live in. They let me know that it's not my fault and to understand that until these ills are corrected, it's just something that's gonna be happening in our world. They've been racially profiled many times. My mother's father is 82 years old. My father's father is in his late 60s. They still are very wise and inform me a lot. They've been through a lot. A lot of similarities between their cases. They've seen so many things that it would take another lifetime of interviews to explain what I've been able to learn from them and draw out of it.

They said to be careful. Don't give them any reason – more than what they already have or feel that they have to follow you – to do anything stupid towards you. Just cooperate. Don't be upset. You have every right to be upset if you haven't done anything and they're stopping you just because. So I believe that with that being said, I've been able to take that and thankfully I haven't had a plethora of problems but I've had my share. The sad thing about it is a lot of people look at it and they don't realize how much racial profiling or whatever the term may be is more psychological warfare than anything.

Darrell's use of metaphor is particularly meaningful. The imagery produced through his selection of "unbound" and "unshackled" clearly posit the racial profiling experience within the context of slavery. Foucault's (1977:101) idea of corporal punishment and social control via the public execution is easily extended to the realm of the corporal nature of slavery. Foucault views the panopticon experience as one released from the body but one that effectively bounds the mind. From Foucault, the move in governance from one concerned with the body to one concerned with the mind, consciousness, and the soul are evident in Darrell's remarks. Foucault suggests that while both the mind and the body were bound in early times, the effect of the panopticon ushered in a "...shift in the point of application of this power: it is no longer the body, with the ritual play of excessive pains, spectacular brandings in the ritual of the public execution; it is the mind or rather a play of representations and signs circulating discreetly but necessarily and evidently in the minds of all. It is no longer the body, but

the soul...(1977:101).” Darrell associates the constant surveillance of racial profiling with governance of the body during the slavery era. Later he makes reference to “mental freedom,” a concept very much in the realm of what Foucault argued was lacking as a consequence of panoptic social control.

His grandparents’ advice is an excellent example of how ‘the lesson’ operates for communities of color. First, the experiences of the elders are valued as accounts of how those who go through “the storm” develop a knowledge of racial oppression that is viewed as a source of strength. Collins’s (2000) notion that personal troubles are politically constituted is evident in Darrell’s grandfathers’ wisdom that the injustice of criminalization processes is a product of “the world we live in.” The expression also is suggestive of the panopticon and the consistency of its effects. There is an emphasis on behaving in a manner that will not result in confrontation. The historical reality of police-minority relations necessitates this informational exchange as a matter of survival. Yet, as evidence of resistance and awareness of the oppression, the elders engage the liberty and justice rights discourse (“...you have every right to be upset if you haven’t done anything”) to support Darrell in his position as a citizen. Finally, Darrell’s use of warfare discourse is informative. It illustrates Foucault’s concern that constant surveillance and the panopticon effect impact the psyche. In this instance, it is particularly striking because outside of the shadow citizen realm in which he and many other people of color exist in practice, warfare discourse is invoked when the state is engaged in *protecting* the citizen, not in causing harm to the citizen.

The narrative clearly demonstrates how the guidance and advice coming from the elders does not come across as a purposeful effort to negatively shape young Darrell's view of police-minority relations. Rather, the guidance is presented as sage advice about how best to operate in a racial state. These admonitions are relayed as efforts to prepare young people for the racism they will likely face.

The consistency of the panopticon effect is evident in another excerpt from Darrell. I asked him to expand on his idea that racial profiling was a form of "psychological warfare."

Oh because when you're expecting to be stopped just because of your ethnicity, of your age demographic or just the way you look. Mentally you have that in the back of your mind – it can happen at any time. So you sit up and think, well man! . . . So it's a psychological thing because here you are a human being and that's taking away a large piece of your mental freedom because you know you're going to get stopped. You don't know when. You don't under what circumstances. Even when it does go down, you don't know how far they're going to go with the stop. . . . It cheats an individual out of some of their mental freedom because you have to worry about that.

There's an uncomfortable state of mind that you attain when you go through something like that. So if you've experience it once and you get stopped later on down the road again and you've done nothing, not necessarily the same circumstances but the same atmosphere of behavior. Here we go again. I'm clean. I haven't done anything. I'm getting stopped . . . So there's a very uncomfortable state of mind that you experience when you go through something like that. So you don't forget that, you know? You can't just block that out of your mind. I think you have to be delusional to say 'Well it will be different next time.' And actually believe that fully...you can think that...but you're not going to fully believe it. I don't believe you can. I haven't. I never will again.

Darrell makes several references to the mental/psychological burden of constant surveillance. DuBois's *double-consciousness* concept is an appropriate frame in respondent references to the duality they face as both Americans (and ideally full citizens) and people of color. In this instance, Darrell signals his citizenship in its

guarantee of “mental freedom,” yet through racialization and criminalization processes inherent to racial profiling, recognizes a distinct lack of “freedom” because of his racial status. By engaging citizenship ideals (the ability to have mental freedom) and recognizing the limitations placed on him, Darrell is aware of the *twoness* DuBois argues is both a burdensome, negative condition of people of color and, in the same instance, an insight that allows people of color to see the world ‘as it really is’ that Whites do not comprehend nor possess. As noted earlier, there is a sense that this struggle between citizenship and minority status that is invoked by panopticonism in a racial state, when acknowledged, may either be “debilitating” or “emancipating” (Blau and Brown 2001:220).

Darrell’s remarks also point out Foucault’s understanding about the major effect of the panopticon: “...to induce...a state of conscious and permanent visibility that assures the automatic functioning of power...the surveillance is permanent in its effects, even if it is discontinuous in its action.” Darrell’s comments are in line with Foucault’s suggestion that the panopticon experience involves a dispersion of discreet “representations and signs” that cause social actors under the panopticon effect to be ultra-aware of state-centered surveillance. Again, Darrell refers to the psychological and the “worry” that accompanies ubiquitous surveillance. He is even compelled to qualify his remarks with the comment that he is a “human being,” and in doing so, posits a contrast between the “human being” status and limitations placed on those racially profiled, suggesting they are at odds. Darrell states there is an expectation of being stopped “...in the back of your mind – it can happen at any time.” The burden of this

knowledge is not something Whites experience to the same degree. He speaks of an “uncomfortable state of mind” that frames his encounters with law enforcement, and suggests that the ability to “get over it” – a fairly common refrain from Whites who do not experientially understand the breadth of the traffic stop – is unlikely to occur. The regularity of being stopped by law enforcement, evident in the remark “here we go again,” becomes a part of his citizenship experience, a part of his relationship with the state. Darrell recognizes the effects of the panopticon as a way of restricting freedom which goes to Foucault’s discussion of how the panopticon is a function of power. Darrell’s remarks indicate the ‘conscious and permanent visibility’ Foucault sees as resulting from panopticonism. Darrell later describes how:

...individuals are still being enslaved mentally. That’s the saddest part about it. Here you are – you’ve been unbound by physical shackles but you have mental shackles around you that are far worse than the ones you had physically.

It’s pretty hard. It affects the way we function in life as human beings. We have laws in place to...I would say bind your mind with. Fear tactics. Control. To try to limit what freedom you have. I think that’s what they really do and I wonder what is it going to take? Rodney King -- people thought that was the Plymouth Rock of racial profiling. It’s not! True enough, it’s paramount in itself but it’s not. There are so many other cases out there that aren’t being heard. That aren’t going to be heard because of fear. The fear. So many people of color in this nation and across the world worry about what if or what’s next?

As in earlier references, Darrell makes an association with racial profiling processes and slavery, including how profiling processes are akin to “mental shackles” that influence every day happenings. Racial profiling is viewed as an extralegal mechanism for control by law enforcement. Darrell’s comments illustrate the pervasiveness of racial oppression. He questions the ongoing process and wonders what other forms of oppression will manifest.

Another respondent, Edgar, a Latino in his 20s with a college degree, remarks on the long-lasting effects of racial profiling.

It's already put, I guess that stain on me. That no matter now whenever I see PD they're not my friend. They're the enemy, the bad guys. I'm an educated person. I give everybody the benefit of the doubt but you see something, you feel something. You're always going to have that in you. Definitely when things keep happening the same way. You still feel that hurt feeling like you know what, maybe this is the way it is.

In this comment, Edgar's use of the term "stain" is indicative of the permanence of the panopticon experience as it is a reference to something that cannot be removed and is literally a physical mark. His narrative abounds with reference to the experiential aspect – the seeing, feeling, and repeated encounters -- of profiling. He engages in credentialing ("I'm an educated person."), and makes a point of saying that he offers the benefit of the doubt to people. Credentialing is a way to signal, in a classic criminology sense, commitment to society and, as discussed in Chapter V, engages the citizenship realm. Examination of the "benefit of the doubt" comment goes to the general critique of the vicarious experience variable in the current literature: people of color do not want to experience each encounter with White America as a racialized encounter and may downplay and deny racially active experiences (Feagin and Sikes 1994). Unlike some discourse that suggests minorities 'play the race card,' a running narrative from my respondents is of not wanting to consider encounters with the state as racialized ones. Edgar's final comments illustrate the permanency of the racial profiling encounter ("You're always going to have that in you").

After relaying a particularly harrowing story about having a gun placed to his head by a police officer shortly after purchasing a soda and exiting a convenience store,

another respondent, Nathan, a Black male in his 30s with a graduate degree, framed the panopticon effect in the following way when asked why he considered the traumatic incident racialized.

Simply because it was not an isolated experience. I've experienced similar stuff over the years. Different name, different place or location. Just unusual stuff for no reason . . . It's sort of in the subconscious that the combination of male, Black, and young looking -- put the three together and the image that the public, whether laity or professionals, has is a negative image. The three combined are just automatic prime suspects for just anything.

At this stage in my life, I'm not surprised by it. Not that I agree with it but when it happens, I accept it as part of the Black experience. I agree that there is something seriously wrong with it . . . I've been dealing with that part of stuff for ages. It is a part of the experience. [My experience is] very minor compared to what the rest of the Black experience, the rest of the Black male experience, is like. I'd almost say it was nothing, a drop in the bucket.

Nathan's narrative illustrates how the regularity of profiling practices becomes normative for many people of color. His expression "automatic prime suspects" is informative as it indicates how the criminalization of young men of color is viewed under panopticonism. These instances also engage the double-consciousness of DuBois because it reflects a struggle of identity. Nathan expresses awareness that his "Black experience" of being criminalized is likely not as damaging as criminalization processes for less advantaged members of the Black community. As noted in Chapter V, concern for the collective is clearly a mark of citizenship.

I asked Nathan if he discussed racial profiling concerns and resistance to racial profiling within his social network, as this process is fundamental to the vicarious experience and 'the lesson' influences.

Amongst peers, we do little talking about that . . . You don't have to like them but you have to respect them. That's with all authority figures – teachers,

professors, any adults, any body in authority. I don't make a generalization against the whole industry of law enforcement.

As far as people of color, generally they are in positions of less power. The more power you have, the more favorable. The more power a person has overall then the lesser the consequences for challenging an unjust situation. If you're a person who doesn't have much power, then to challenge an unjust situation could have costed. The consequences would have been too severe. Just do what's best for the present.

In the above excerpt, Nathan indicates that his experience with his peer group doesn't include a lot of discussion about police-minority relations. A later reference from Nathan indicates his parents' strict influence shaped his respect for authority stance. He also makes a point to comment that he doesn't necessarily generalize his views of law enforcement to the whole of law enforcement. The latter part of the quote concerns issues of resistance and the body of knowledge that incorporates 'the lesson.' While not making a direct reference to 'the lesson,' his comments demonstrate awareness of how the body of knowledge inherent to the collective memory about how racial oppression operates. His comments indicate he learned that resistance to racial oppression by the state needs to be shaped by the situation at hand ("...do what's best for the present."), a staple of the ongoing communication across generations of color about how to handle encounters with the state.

Another respondent, Joseph, a Black male in his 40s with a graduate degree, mirrors Nathan's comments about the direct issue of power inherent in racial profiling: "[I]t is an eliteness that these individuals have where they more or less think they can harass or pull over someone who may have the least power to do something about it. When I'm talking about power, I'm talking about money, I'm talking about power. I'm talking about a way of actually defending themselves. Joseph's narrative also brings to

light how resistance strategies against power dynamics in the racial state may incorporate humor in renderings of ‘the lesson’: “[T]he comedian Richard Pryor told this story to thousands, millions of Black people about an actual incident...but he made it into a joke. The officer asked him to get his driver’s license and he said ‘I am reaching in my pocket to get my driver’s license.’ Of course, as he assumes the voice of Pryor, Joseph’s speech slows to a very deliberate crawl to signal to the officer exactly what he is doing as a way to protect himself. Some 30 years later, leading comedian Dave Chappell uses similar ‘jokes,’ in his stand-up routines, indicating the slow progress on this front over the course of several decades.

Javier, a Latino in his late teens with some college education, relayed a story of how he and a group of friends – all Latinos – were singled out for law enforcement attention while nearby a group of White youths were scrutinized less harshly by the police. I asked Javier if and how his friends and family discuss the incident afterwards.

Yeah. I think we were just being stupid like ‘Ah, hey, White people...’ and this and that but mostly just cops in general. [How so?] I don’t know. I guess that they make you feel really nervous when you’re not really doing anything wrong. All the times when you’ll be driving around, doing the speed limit and everything but the cop pulls beside you and be following you for a while. After so long, it’s like – what did I do wrong? I start questioning myself like – ‘Oh my God, did I cut the guy off? What did I do?’ Just like, from a child I always hated cops. I always thought they were just there to blame us for something.

My dad always told me to act a little nicer with White police officers. I’ll even see him. We’ll get stopped for something. Of course I don’t know why we’ll get stopped. I guess it is my dad. He’ll be in a nice neighborhood and he drives an old brown truck. I don’t know what year it is but it is real beat up. He’s a construction worker. His attitude changes quickly. He’ll be real nice and his voice goes a little higher. The first thing is ‘Yes, sir.’ ‘No, sir.’ He’ll be real nice. He’s always told me to turn off the radio, make sure the car is a little clean. Of course, I’ll be as polite as possible.

Javier's account shows how the panopticon effect may induce a sense of wrongdoing even when "...you're not doing anything wrong." Under the watchful eye of the state, this operates as a function of power. He also speaks about long-term alienation from law enforcement, likely brought on by the vicarious experiences of his father. Speaking of his father, elements of 'the lesson' are evident in the backdrop of criminalization processes, particularly the extra-ordinary politeness that is used to de-escalate potentially dangerous encounters with the state. Javier's narrative can also be contextualized to extend the vicarious experience issue to a larger realm. As a youth, Javier is shaped by his own experience watching his father be mistreated by the state. The current literature focus on vicarious experiences, again, because it is survey-driven and comes from a 'top down' approach to examining racial profiling, misses this larger context. A vicarious experience is not only about shaping, in this case, Javier's view of the police as the relationship affects him alone. More critical analysis reveals that part of the alienation Javier experiences likely comes from how Javier sees the state deal with his father, and specifically understanding how the power held by the state is used against his father. Finally, his comments point to the preparation communities of color engage in when dealing with the state. Although Whites also have a sense of being under the watchful eye of the law, the experience is different for many people of color because of the knowledge base of oppression and the accompanying concern for the collective that shapes their citizen-state relationship – this *twoness* that DuBois theorizes about. I asked Javier how he deals with it all. His response goes to the permanence of the panopticon and the need to "live around it": "[I] know that I feel like it is there but it is something

that is just never going to change. You just have to deal with it. Learn to live around it. No one really talks about it like that. I guess maybe in my family it's like it's never going to go away so just try your best to...stay away from...white cops.

Another respondent, Edgar, discusses 'the lesson' and offers another dimension to the phenomenon.

With my family, when we talk about law enforcement and just getting in trouble in general, usually they suggest just be submissive to it. Do whatever you have to do to get out of it, to get yourself out of that situation. You can make things worse. One simple action. One simple behavior or word or whatever. My family always says get yourself out of that situation.

Hispanic people are usually religious. I'm not religious. I believe in God but I'm not as religious as my parents are. What they tell me, if you get in trouble, if one treats you a certain way, you know they're going to get judged. They'll get theirs. When they get theirs, it will be unfavorably. In a way it kind of gives peace to me. But I'm here right now. I want something done right now. I want something done right now. It's not. You've got to be rational. You've got to be rational. The best thing to do is just like I said. Do what you've got to do to get yourself out of that situation. It does give you comfort to know that they will be judged.

Again in this excerpt, very practical matters of survival comprise the core of 'the lesson.' There is a concern that "one simple action" may be misconstrued by law enforcement and lead to a bad experience, thus demonstrating the very purpose-driven goal of the collective dialogue about law enforcement running through communities of color. Edgar's parents, in an attempt to help make sense of all of the caution they are encouraging in him, remind him that judgment day will come. Ultimately, though Edgar wants "...something done right now," he finds some peace with his parents belief that accountability will be at hand.

Angela, a Black female in her 40s (no education given), provides another example of the omnipresence of the panopticon effect. She describes what amounted to

a riot in her neighborhood following an arrest of a young man many in her community felt was an unjust arrest. I asked her why the community reacted so strongly and she quickly goes into the constant patrolling and monitoring characteristic of the panopticon effect.

They beat him. . . . Sometimes it might just be a reaction they see you with. When they pull up they might see you with your hands in your pockets at the wrong time. There's really not a right way or a wrong way to do that over here. If you see an officer come around this corner and say I'm coming out of this parking lot, I might just so happen to put my hand in my pocket walking to my door. They quickly assume and pull over and pull up in here and say 'I saw you stick your hands in your pocket.' But when they get here, you don't have nothing but your keys and change. They don't even apologize. They just assume. There's always an assumption!

K: So they're thinking that you're putting something away – like a bag?

Yeah. All the time. When they come, it's like there's never no good person over here. They want to say everybody over here is the same. We all sell, we all, you know. It's like everybody's judged by the same color.

In the above excerpt, Angela points to the criminalization that occurs in her community and how everyday activities are monitored and suspected. Her comments point out the ongoing nature of the panopticon. I asked Angela to expand on the effects of these criminalizing experiences.

When I see it, it makes me angry because to me it's not showing leadership. To me I feel like where I was raised, the police officers were the ones that carried the number one leadership for anybody. Of what I've seen and experienced with some of these police officers over here, be no more than what we have to deal with ourselves out here as a pedestrian. You could see some of them come over here where it's like I already have a bad attitude, and some of them will tell us that – 'Look, I've had a long, bad day, and you're just urking my nerves or pissing me the hell off.' You might come to a place where you say, ok, 'Can I speak to your superiors so that we won't get into it further and let your superior make a decision about you treating me like this or what.' 'Call my goddamn superior! I don't give a damn.'

K: Earlier you were saying that when the police officer was really giving you a hard time, you went to Internal Affairs. It seemed like that did something?

Well, it quieted down. I never saw the officer again. . . . The way I was raising my children, I voiced that opinion to them a lot. If something comes up with a police officer, and they feel like they can't talk to that police officer, they have a right to ask for their superior. Because everybody has a boss. That's what I teach them.

Regarding vicarious experience and 'the lesson,' Angela indicates that her view of law enforcement was a relatively positively one when she was growing up. The experiential effect of racial oppression by law enforcement changed her relationship with the state. Thus, the communications she received as a young person was not wholly detrimental to her view of the police. It was the experiential nature of her relations with the police that appear to have the greatest influence. She refers to one incident in which she invoked the citizenship realm and made an official complaint about police mistreatment. In this context, 'the lesson' is evident as she discusses the teachings she passes on to her children (and likely to others as she was a community activist). The 'lesson,' as presented here, is clearly a way to support people of color in the ways of a racial state, specifically by engaging due rights to hold the state accountable. Again, the vicarious experience is not necessarily about passively adopting the views of others who have had negative experiences with the state. It involves the aims of 'the lesson' that seek to directly impact the lives of people of color. In this instance, 'the lesson' takes on another dimension that goes beyond earlier examples of how to behave in the presence of law enforcement. The 'lesson' in this instance clearly indicates it is about how to negotiate citizenship. As such, it reflects as well DuBois's argument that people of color have insight about the world emergent from racial oppression.

Another respondent, Cristina, a Latina in her 20s with a high school education, offers a rendering of the reconciliation of somewhat positive images of law enforcement she had as a child and images and experiences she has as an adult. She also remarks on the complex nature of police-minority relations.

I do think sometimes they take matters into their own hands. That stuff shouldn't occur because you bring up kids to think 'Oh, the police are good people. They're here to take care of you and to watch over you, here to protect you.' Then when the kids see the police beating on people on TV, what do you think? You're just confusing them like any other thing. In a way I think it depends on how you respond to the police because there's no need to think you're always right. Sometimes you have to accept that you're wrong or that the person is a suspect or something. Sometimes they're wrong also. It's hard to tell. There's so many people that they come across that are bad people and they have to do their job.

Kimberly, a Black female in her 40s with a graduate degree, relays a story about a particularly tense encounter she had with law enforcement. The incident, as with other respondents, was described in great detail and indicates the staying power of these watershed events in people's lives. I asked if and how she discussed the incident with family and friends.

I guess in a sense in going back and talking about this to people...when I talk to people of color and people in my family, yeah, they have a tendency to downplay it because it is something that is so prevalent, I guess, that Blacks are being discriminated against that. It's just like another occurrence. But for me, I haven't experienced a lot of personal experience with racism and those types of things. When I see, when it affects me, it affects me tremendously. I automatically realize what's going on, you know?

Kimberly's remarks illustrate one of the avenues of discussion that racialization and criminalization may take. In the U.S., contemporary events may be downplayed as they emerge out of a historical context of racialization and criminalization processes that are part of the minority experience. The events, though not unexpected in a racial state,

are still incredibly meaningful. Again, the vicarious experiences that the current literature concentrates on likely remains highly relevant in their analyses because of the accompanying experiential events that back them up. When family and friends discuss these events, the effect is not that they *create* a racialized sense among each other (an underlying supposition in the current literature, if unspoken), the effect that is created is one of support of their collective understanding of racial oppression and its myriad manifestations. She expands in the excerpt below.

I think that that's what people in my social networks and stuff [think]...yeah. When you're pulled over by the police, hey – just sit there, wait to hear what he has to say, answer questions. Just cooperate. Even though my perspective about police officers may have changed, I still am someone who believes in respecting other people. So if a police officer approaches me and they are respectful of me, I am also respectful. At the same time I'm not going to allow them to talk to me in a degrading manner without responding to that But for the most part, I've heard, in talking in general with people, that's what they tell you. Just pull over and cooperate. I think a lot of people think that the police can do anything to you and justify it and get away with it. So that's definitely, for the most part, the nature of the conversation. Very cooperative.

I asked Kimberly if she was somehow changed by her experience.

Yeah, I am very critical of the police. When I see things on TV when police are involved, I automatically question whether the police did something to provoke. I know that is not the case in all situations. But this sense of abuse of power. I think one of the reasons I'm in the field I am in is because I have an inherent want to try to help people who are disadvantaged and not empowered. I think it raised for me to experience that so – frontline-ish – it just, yeah. It did something to me to be in that position, to be that person. To...to be made to feel so...devalued. You know, personally.

The encounter with the police that Kimberly describes changed her relationship with the state yet she does not make unqualified assumptions about every citizen-state encounter gone wrong. She reflects on how the encounter was motivating in her work with issues of justice. Kimberly's use of the warfare discourse ("...to experience that so

– frontline-ish -- ...”), as earlier with Darrell, is significant and goes to the power dynamic inherent in racialization and criminalization processes. She discusses the effect of the racialized surveillance and more directly addresses vicarious experiences in the continuation below.

It stays with you. It stayed with me because it was like one of the first times. I heard a whole bunch of stories. My parents talked about stories and how people, just to their face, kind of belittled them or tried. I had never experienced that. So for one, it stays with me because it was something out of my regular experience. Two because you see it. You see it everywhere. You see it on TV. You hear people talking about it. And the fact that it is not going away. It’s here! It bothers me because it is so structural it’s hard to see how to make any changes. You can do all the things, all the things society says is valued yet still based on skin color, you can be devalued. Yeah, it makes me angry. It makes me extremely angry.

I feel like a lot of years, I bought into the system. I bought into the system of if you work hard, if you achieve this education, if you do this, whatever, that somehow it will kind of lessen the bad experiences. For a long time, I used to think that. I used to believe that people who – I have to say Blacks because that is my experience – who didn’t achieve, that was because they just didn’t try. Oh, there was a lot of ‘White man this... White man that.’ That’s what I heard a lot. That experience with that police officer and shortly thereafter was the Rodney King incident. When I saw the Rodney King incident, that made me realize that Blacks in America can be treated *however*, and the world can see it and nobody will say that it is wrong. I was so angry that I was almost anti-America to a certain point. I didn’t believe anything about America. That is when I started my quest, somehow, to try to make a difference.

Kimberly’s narrative is informative because it shows how she rejected some of the information she was receiving about how race operated in the U.S. prior to her own encounter with the state. This is somewhat contrary to the vicarious experience discourse suggesting those without their own personal experiences adopt (negative) views of law enforcement unquestioningly. Although Kimberly acknowledges that the event was outside of her normal experience, the narrative that follows frames her experience within the broader collective experience people of color have within a racial

state. She explains how she used to believe some people of color were exaggerating experiences of inequality. As with the earlier analyses of citizenship issues in Chapter V, Kimberly understands the contradiction between being criminalized yet having other identities that show commitment to society (“You can do all the things...society says is valued yet still based on skin color, you can be devalued.”). As discussed in Chapter V, she makes a direct reference to a break from citizenship (“I didn’t believe anything about America.”) and how the experiential nature of her encounter and the following outrage over the Rodney King beating outweighed her earlier conceptions of how racial inequality occurred. Finally, as examined in the preceding chapter, Kimberly’s narrative demonstrates how these experiences with the state can lead to resistance to the oppression, including efforts at reform. The denial of full citizenship treatment and Kimberly’s ‘consciousness’ that this occurred because of her racial status provides another example of DuBois’s conceptions of self-identity, imposed identity, and the ensuing struggles that result.

Another dimension where the panopticon effect, ‘the lesson’ and vicarious experience concepts interact is evident in the following narrative from Kimberly. She expands on how her relationship with the state changed following her racial profiling encounter. As with Darrell, another respondent, Kimberly reflects on the racialized traffic stop and its oppressive qualities and slavery. Her comments point to the complexity of racial oppression and the various mechanisms and dimensions of awareness and resistance. Kimberly’s association of her experiences in understanding

racial profiling with slavery also reflects the linkages between the past and the present that comprise collective memory.

I recall having told people that ‘Oh, it doesn’t have anything to do with the White people. You just don’t want to try.’ I recall telling people that I mean I had so bought into the system. I think when I realized that, when I was so disillusioned that I had bought into it – I had assimilated so much – that I was sounding, probably to Blacks, I was sounding just like White America. It reminded me so much [of] back in slavery. The female, the mother, or the wife would often times have to act like the liaison with her husband out in the field and how the master treated him. She would have to kind of say ‘Oh, master is OK.’ So it was almost giving some legitimacy to what was happening to them. I felt that. I felt so betrayed. Disillusioned in a sense that I went completely over to the totally opposite end. I would say as time has gone by and I’ve gotten older and I’ve learned more, I’m learning to get back toward the middle where I recognize who I am and I recognize what America stands for. I don’t see all White people as representing that. I’m on an even keel where I can determine, I can say what my experiences are without necessarily making a generalization about every body in the group.

Pam, a Black woman in her 30s with a college degree, also discusses ‘the lesson’ and vicarious experience link. Her experience with the criminal justice system does validate the vicarious experience premise to a degree in that most of the interview centered on her brother’s experience in the criminal justice system. I asked her if and how she discussed issues of racial and ethnic status with family and friends.

Well, this one comment I would hear from time to time. I was raised up in a low economic area and one thing they would always say is you better watch your back. You better be careful as it relates to getting in trouble because once you get in trouble, because of who you are and where you live, you’re just going to be doomed. They would say you are going to be stuck. They don’t care about you. You will be treated differently because of who you are. Black -- just who you are. They would always say that, you would hear that throughout. You see it on TV. You see it with the Rodney King case, you know, just because of who he was. They would say that. It was kind of hard for me to believe at some points.

In this excerpt, the collective voices of concern exposed Pam to a view of a race-based criminal justice system, with the Rodney King beating and other media influences collaborating some of these earlier views. Yet Pam's final comment about doubts she had on the input she was receiving regarding how race operated in the criminal justice system suggests these vicarious experiences, again, are not passively adopted by people of color.

Another narrative engages this sense of doubting the realities of the panopticon or 'the lesson,' emerges from Manuel, a Latino in his 30s with an associate's degree. Manuel introduces the idea that the panopticon effect may be a reciprocal process. Unique in his response, Manuel's view is likely influenced by the time he spent in prison. Over the course of the interview, he made several references to the fact that he had a prison record and thus believed the police were somehow justified in targeting him for law enforcement after his release. However, he struggled to reconcile those rationalizations with the rehabilitation he enjoyed in prison, specifically the education he received, and with his continued efforts in education and success in holding down a good job. In the excerpt below, I asked Manuel how he explained the more negative levels of support for the police from people of color.

I think it works both ways. If they're looking at us, if they're trying – 'Oh, there's some Blacks over there...or some Hispanics, we better watch 'em...' I think every time a cop pops up, I'm thinking I better watch out because he could [do something.] I do that a lot. I could be driving down the road and I'm like – 'Ah man, here come the cops.' See how I got an attitude already toward them? I didn't even do nothing.

Because of racial profiling. That's why I say it kind of works both ways. If they're looking at us like that already and thinking negative, well it works the other way around too. When they pop up, in my mind they're either going to

target me, harass me, hassle me, mess with me. There could be some other people there too but I would stick out.

In this excerpt, Foucault's sense of how the power of panopticonism becomes instilled in the individual (and collective) is evident. Manuel internalizes the all-seeing eye of the state and makes a link between the profiling practices of the state and his own automatic sense that he is a special target for the state. This reciprocation results in alienation. As Foucault argues, disciplinary power from the state is:

...exercised through its invisibility; at the same time it imposes on those whom it subjects a principle of compulsory visibility. In discipline, it is the subjects who have to be seen. Their visibility assures the hold of the power that is exercised over them. It is the fact of being constantly seen, of being able always to be seen, that maintains the disciplined individual in his subjection. And the examination is the technique by which power, instead of emitting the signs of its potency, instead of imposing its mark on its subjects, holds them in a mechanism of objectification (1977:187).

While Manuel's comments point to a reciprocal quality of racial profiling and extends the issue into another dimension, Victor, a Latino in his mid-20s with some college, introduces yet another dimension -- the importance of social space in racial profiling processes. Social space restrictions, the *who belongs where* reality that shapes American neighborhoods, is another social control mechanism in a racial state. In the following excerpt, Victor is responding to my inquiry about the different levels of support for police across racial and ethnic groups.

Because they spend more time in our neighborhoods. They're looking at us a lot. I will see one police officer in Queen's Crossing. Maybe it's because they have security guards. Maybe not. But most of the crimes, I agree, happen in Black neighborhoods, Hispanic neighborhoods. That's where you see most of the police officers. Looking. You see one, you see three more coming right behind you. That's why a lot of us feel that way. It's like you can't even go outside and take out the trash without seeing one.

My mom used to say, ‘if the shoe fits, wear it.’ If you’re guilty about it, if you’re guilty of something, they’re going to come get you. But then if you’re not and you’re still being put into that box with everybody else, that’s when those feelings come about.

K: Almost like the regularity of seeing the police in your neighborhood isn’t giving you a sense of security...?

Absolutely not. Why do I need the police officers to make me feel secure? For us, it’s more a feeling of being supervised, of being looked down upon...of the need for the police officers needing to be there on a regular basis. You don’t see that on the south side of town.

A common rationalization to explain disproportionate traffic stops across racial and ethnic groups concerns the allocation of law enforcement resources to ‘high crime’ areas, commonly referred to as the ‘deployment’ argument. If law enforcement is primarily allocated to areas with a large population of low socioeconomic and minority status residents – often those communities designated as ‘high crime’ areas – the reasoning is that it *makes sense* that people of color will be subjected to more attention from the police due to where they live. While the practice will ensure arrests for particular types of crime, it also may account for the lack of monitoring of other social spaces where different types of crime, like white color crime, occur.

Victor’s narrative engages, to an extent, this rationale. His remarks also point out how the patrolling and monitoring of minority space weighs heavy on his and others’ minds. He makes reference to what I call the ‘guilt factor.’ In some discussions of racial profiling, people of color may state that there is nothing problematic about being pulled over by the police if indeed the person of color made a traffic infraction. Victor’s mother’s comment goes to this idea. The rationalization is complicated by Victor’s awareness that people of color who engage in crime, because they are scrutinized to a larger degree than Whites, are more likely to wind up in the system (“...if you’re guilty

about something, they're going to come get you.”). This connection becomes clearer in the second part of the quote when he brings up the surveillance that permeates his community (“...it's more of a feeling of being supervised.”), and how the White space of the south side of town is not surveilled to a similar degree.

The majority of respondents were critical in their assessments of how social space was regulated along racial and ethnic lines. For example, Mary, a Black woman in her 80s with a graduate degree, expresses dissatisfaction with the state when I asked her why she thought she was stopped by the police on a recent occasion:

Because I was Black and I was driving a nice car. I didn't think it was any of his business where I was going. 'Where are you going?' I haven't had that much contact with police anyway but it just really...made me feel bad. Here I am an old lady, a private citizen, not speeding, not breaking any laws. To be pulled over and asked 'Where are you going?' . . . You can't judge a book by its cover. I've been around people who looked like they didn't have a dime and they pull out a roll that would choke a horse.

The 'where are you going?' comment, particularly for a Black woman in her 80s who experienced legal segregation for many years, is an affront to the liberties of citizenship she identifies with, as it suggests certain space is off limits to her. Her narrative also points to the intersection of race and class in these processes.

Alberto, a Latino in his mid-50s with some college, engaged a more conservative view of the criminalization of social space. The argument is very much a part of the discourse explaining minority overrepresentation in the criminal justice system. After some initial discussion of the topic, I introduced the two main views of the issue, including the 'rational discrimination' argument engaged in part of Victor's (and Alberto's) narrative, and the argument that generalizations about social space cut a wide

swath across neighborhoods that may actually contain a large majority of law abiding citizens.

Well, it can be a little bit of both, I guess. You can get officers that are prejudiced and that's the only way they can demonstrate power, that they have power over others and going at the weakest links which are the minorities because they don't have the money to defend themselves. They're found in the neighborhoods and housing areas that are more riddled with crime because of their economic situation. Because of this they raise a red flag which brings attention to them from the police because they are in these areas. They are going to get more attention because they are in the areas that are more riddled with crime. So, whoever is there, which is usually the poor and minorities, they're the ones that are going to get the attention from the police and get arrested more often.

. . . . It probably does happen because the officers get used to arresting minorities because they're the ones that are found where the trouble's at. They're the ones who they control in the troubled areas. So then they start thinking they got to be looking for minorities all of the time. Because they are the ones being arrested. They're the ones that are involved with the police. Unless, uh...the people that have the money are not going to be found in those places most of the time unless they go by just to buy drugs or whatever. But they're going to be in better neighborhoods and the police are not going to be patrolling those neighborhoods if there is nobody outside – like on the corners – like there are in the poor areas.

Alberto's narrative shows a complex view of police-minority relations. His focus on social space was rationalized because of the emphasis on 'street crime' that defines criminal justice orientations in the U.S. The panoptic focus on minority space is commonsensical to Alberto. However, he recognizes the crime that occurs in "better neighborhoods" is not monitored and surveilled similarly. Later, Alberto engages the idea that "...all it takes is one or two to give a neighborhood a bad name. It's very few the ones that are causing the problems."

Though not directly a traffic stop encounter, Jerome, a Black male in his 40s with a college degree and a former police officer, relayed an account of how he was mistaken

for a burglar suspect by a police officer as he walked outside of his home in a predominantly White neighborhood (thus qualifying as a criminalizing raced encounter with the state). In the first few seconds of the encounter, the officer unsnapped his holster, indicating potential use of lethal force. I asked Jerome if he could discuss why he thought the life-threatening incident was racialized.

Well, I go on previous experiences too. I want all of your audience to know, I don't try to act like there's a problem. I just be aware of it in the back of my mind. It says 'Warning warning, watch out.' What I did was just walk out there. I wasn't mad. I was very calm. I was thinking about baby poop [a new father, Jerome was carrying out two large trash bags of dirty baby diapers when he was approached]. I'm thinking about the next day. I teach. I'm thinking about my next day's lesson plan, what particular kid was giving me problems. I had no problem with no police. I was just there, had a hoagie sandwich waiting for me and a big old nice glass of Kool-Aid. That's what my mind was on – eating! Very calm. But when he came out and shined the big light in my face, I knew there was going to be trouble. He already had me guilty. From the tone of his voice to his mannerisms to the way he came out at me on my property and asking me 'Did I live here?' He's telling me 'You don't belong, sir. You don't belong here.'

Jerome provides a unique perspective in that he was once a police officer and, from an earlier reference, believes he has experienced racial profiling dozens of times over the course of his life. He is concerned that readers of the present study understand that he does not assume there will be racial issues with law enforcement when he encounters them. However, he is intimately aware that he needs to be prepared in case something does arise. The statement about not making a problem out of every encounter goes to the discourse surrounding the vicarious experience. As stated earlier, part of the underlying implication with vicarious experience is that communities of color themselves *create* problems with law enforcement by their ongoing discussion in the community about historical racial oppression. Jerome, perhaps because of his law

enforcement background and familiarity with the police discourse on the subject, quickly wants to dismiss the notion that his *expectation* of racial oppression is the real problem in the encounter. The detailed account of his thoughts at the time point to the everydayness of racial profiling processes. His point is to show how criminalization ‘crashes in’ on everyday life, similar to Habermas’s concept of how the macro (here, the racial social system and specifically the political and legal realms) crashes in on the micro (here, the everyday lives of people of color).

Jerome’s narrative is important in part because it provides another example of the salience of social space in racial profiling processes. The panopticon effect includes concerns about the prohibition and management of social space as some areas may produce a more intense panopticon experience. For example, another respondent stated how he “...knew where not to drive” in the town he had recently moved. In Jerome’s excerpt, the criminalizing effect of the panopticon is clear, as is the spatial restraint (“He’s telling me ‘You don’t belong, sir.’”). These notions of having freedom in social space coincide with Darrell’s earlier concept of “mental freedom,” with both supporting the citizen-minority dichotomy of concern to DuBois.

Later, Jerome again imparts the idea that people of color don’t necessarily assume an adversarial stance with the state but have collectively learned to go into encounters with the state with some apprehension. The apprehension is a result of the experiential and collective lessons in communities of color.

. . . . I’m sorry, I get a little emotional, you know, talking about things like that. It brings up the dread. It makes me kind of bitter. No, I don’t have a chip on my shoulder but it makes you feel like, hey, I’m being treated like that in 2005. It just kind of makes you aware of it. Every time a cop stops you, you’re

not paranoid, but you're like – am I going to get a good cop? Am I going to get a bad cop? Am I going to get somebody who is understanding to minorities?

Because of the enormity of his experience with racial profiling, I was very interested in if and how he shared these experiences among his family and friends.

I'm always guided by my family. African American guys pass it on. Men pass it on how the police treat them. Older guys told me but I was always reluctant because I lived in the quote "white society." I kept always telling my Black friends 'Ah, that don't happen.' Then whoa whoa whoa. Had to admit it. I was in denial. That's wrong. I was in denial and I didn't think it could be.

. . . . As African Americans, you've got to be real calm. Sometimes you've got to bite your tongue to really not get pissed off and go to jail. Sometimes you're pissed off. African Americans are pissed off because we didn't have a picture that we would get treated like that in today's society. It's 2005. As an African American, the mindset is you don't want to get treated that way and you still get treated that way – like it's back in the 60s. We haven't overcome anything! It's still out there.

. . . . Those things have happened to me. It makes you wiser. It makes you conservative. It makes you aware of your surroundings. It makes you, not paranoid, but if the cops stop you, you better be really sharp and pay attention to everything he says. Make sure you take some notes emotionally – notes about what is going on. Be sharp on your game. Whatever you've got to do, that's what you have to do. I've been through that and managed to obtain a college degree, I've managed to teach school for 22 years. I've managed to be a productive citizen in our society even though there's negativity towards African Americans in this world. I'm going to live my life. I'm going to live my life to the fullest.

Initially, Jerome was reluctant to adopt the admonitions of his elders. He attributes this to his experience living in "white society," and being in "denial." Jerome expresses a main tenet of 'the lesson' -- remain calm in encounters with law enforcement. As discussed earlier, this aspect of 'the lesson' has historical roots in group survival strategies of communities of color and remains relevant today. Yet, in an example of how 'the lesson' may shape resistance strategies (discussed more fully in

Chapter V), Jerome puts a positive spin on how having to remain constantly mindful of oppression signals wisdom.

Jason, a Black male in his mid-30s with an associate's degree, offered two intricately detailed accounts of specific racial profiling incidents he experienced. As with Jerome and others, he engages the idea that the panopticon effect is part of his experience as a Black male – the *twoness* to which DuBois refers -- and discussed as such in his community. The following is his response to my question about how he deals with these encounters by the state.

I think growing up, I've been taught this is something that is going to happen to you. You are going to make the situation worse if you get angry or you act suspicious. In both of those situations, I can remember being a little bit aggravated or ticked off but at the same time, because of what my parents taught me, you just don't want to make the situation any worse. If you argue with the officer, if you show any type of anger or aggression, it's just going to escalate the situation. I can definitely remember, when we were in Massachusetts, me and my friend, once he let us go we were discussing where we were in the line of cars [a reference to the officer's rationale for stopping him]. Of course we came to the deduction that we were not at that time, the lead car. That was just an excuse that he was making. We did ride on for about a half hour just talking about how terrible that is. It does make you angry.

As a race I think that is the idea or the feeling that we have from law enforcement -- that we're suspicious because we're African American. We have to be up to something. If they stop us then it's going to lead to some type of bust. It is aggravating. It can be very aggravating. Sad to say that it is a part of life that as a race we teach our young men that 'Hey – this is going to happen to you and you better be prepared for it. It's going to happen. Not that it might happen, but that it is going to happen sooner or later. You're going to get stopped and you won't have to be doing anything but crossing the street. You're going to get stopped and you're going to get questioned.' That's just life. We just learn to accept it as part of our interaction with law enforcement.

In this excerpt, Jason makes reference to 'the lesson' and the underlying presence of the panopticon in his experience as a Black male ("...this is something that is going to happen to you."). As with other respondents, the impetus for passing on the information

isn't directed at perpetuating negative relations among communities of color and the state but clearly about very practical issues of survival. The panoptic experience is evident in his repeated remarks about constant surveillance being "...a part of life" and the need to accept it as part of interactions with the state. Because Jason was adamant about the role of 'the lesson' in the minority experience, I asked him to discuss the implications of some of the discourse surrounding the vicarious experience – specifically the idea that minority communities reproduce racial conflict in relations with the state because they carry on this collective dialogue.

I think that it's easy for white America to say that if minorities, African Americans stop talking about these incidents, then maybe they wouldn't happen so much. It's part of our life, whether we talk about it or not. These are incidents that are going on. So to speak, if you don't talk about the rain, the rain is still gonna come down. It's just a force of nature. This is just something that we have to deal with. I'm not sure who did it but I remember some type of study on the police The alarming thing out of that study was that white America has no concept or no idea of what it's like to whenever you see a police officer, to know that they are watching you. All of the African American college students said that they were stopped and questioned. It just speaks so much to the fact that if you're an African American male between the age of 15 and 30, let's say, you're going to get stopped from time to time. That's just a fact of life. If we stop talking about it, I guarantee that it is still going to occur. Our not talking about it is not going to change the way law enforcement do their business or this notion that we have to be up to something.

Jason's narrative really goes to the heart of the issue with the vicarious experience discourse in the current literature and more generally in the public discourse. Though this discourse is underlying and subtle, I argue that it becomes legitimate in the mainstream criminology community because it engages the 'playing the race card' discourse inherent to both public and academic arenas when examining racial and ethnic relations.

Veon, a Black female in her 40s with a high school education, focused most of her narrative on the death of her son while in police custody. While not specifically addressing the issue of racialized traffic stops, it does go to the more general impact of racial and ethnic status in the criminal justice system. Veon's son was pulled over by the police and ingested a quantity of crack cocaine to avoid getting caught possessing the illegal substance. According to Veon, his girlfriend who was a passenger in the car told the police that he had swallowed the drug and would require medical attention. The police ignored repeated requests for medical aid even once Veon's son began to experience health problems. He was eventually taken to the hospital where he died.

Regardless of what he did, he was still my child. I just don't understand why the system is so messed up. We have so many people who have been abused and we can't explain why the system can do us like that. If someone out there can help us, I wish they could. I'm a mother praying for help. I hope we find a solution for this to help someone else. I don't want another mother to go through this. I'm still dealing with losing my son. It's not about the money or anything, it was just about justice. The system is corrupt.

To me they put my son in a cage, felt like he wasn't nobody, and just put him in the cage to die. He was a son, a father, a brother and he was human. Me myself, I just felt like they were going to do justice and everything. I don't speak out like this...but they are so corrupt.

K: Did you have a good sense of the system?

Oh yes I did! Yes. This right here, it made me know that they're wrong, they're crooked. There's something wrong! My son is not the only one.

Veon's account provides another example of the experiential quality of racial oppression. Prior to this tragic incident, Veon's view of the system was characterized by "justice." The break from a belief in the system that occurred with Veon's experience demonstrates how influential the experiential quality of racial oppression is to understanding views of justice.

Hector, a Latino in his 40s with a high school education and vocational training, explains how his numerous experiences with law enforcement, and the everydayness of it, gives him a sense of being disenfranchised as a citizen of the U.S., a reference clearly in the framework of DuBois's concern with reconciling American and minority identity. I interviewed him at his barber shop and also engaged a young man in the shop, Michael, a Latino in his 20s with some college education, on a number of concerns about racial profiling.

H: It discourages me to have to deal with especially the police. I have to worry about every time I go to the store -- am I going to be pulled over? Harassed? I'm even afraid to call the police if something happens to my house. If I have problems at my business, I usually don't call the police because I'm afraid they're going to get the wrong idea. Like if I have a problem here at the shop, I don't call them so I won't have to deal with it. I'm not friendly with them. When I was growing up, I felt that police officers were to be trusted and to be obeyed. Now I'm distrustful of them.

M: Some people say just cooperate even though the cops are wrong and you know your rights. Cooperate with them. The majority of people I know would say something like that. If they get in trouble for something they didn't do, let the cops say what they have to say. Let them do what they have to do so they can go about their business. The majority of time it is shut up, not say nothing, agree with whatever he says, do whatever he says.

H: Yeah, that's the way my parents are too. They're from the old school. Whatever the police tell you, you just do it. The police here are brought up that way -- to be distrustful of Hispanics and Blacks and to always think that they sell drugs, run around with guns and knives and that we're not decent people. We are. We're just normal like everyone else. . . . There's some good people in this neighborhood. Good people who have grown up to become attorneys, doctors and they come back to visit their mom and dad and are surprised by the way they're treated. Welcome to the real world! I don't know about the Civil Rights Act. If Martin Luther King would come back from the grave, I think he'd say 'Oh well...'

In these excerpts, Hector shares that he had positive views of the police as a young person but later encounters taught him to be "distrustful" of law enforcement.

Michael picks up on this theme and extends it to ‘the lesson.’ This easy segue comes from his connection with not trusting law enforcement and having his community give guidance on how to approach encounters with law enforcement. Again, while Whites are also instructed to respond to law enforcement direction and the like, the experience is different for communities of color due to historical and contemporary realities. Hector’s support of Michael’s remarks is contextualized within the panopticon effect (“...police are brought up to...always think that they sell drugs...”) and an underlying concern with why his community is scrutinized. The final comment is meaningful as it suggests that even achievement of high socioeconomic status is not an insulating factor for people of color, an insight that is supported in the current study in contrast to other work (see Pettit and Western 2004, for example) that demonstrates the expected protective character of high socioeconomic status in the criminal justice system.

In the following narrative, Carlos, a Latino in his early 30s with a graduate degree, describes his experiences with ‘the lesson.’

The sad part is that in my family there was, I don’t carry this with me, contrary to what you believe, my family completely distrusts the police. They’ve been hurt by them, physically, beat up. When I was 16, 17 they’d try to put this on me and I completely reject it. They view me as the educated one – ‘He goes to college so he’s exempt from that.’ The funny part, the ironic part, is that I’m not. I’m not exempt from that because I’m educated because you cannot show your education on your car. If you could I probably would. You know, just like those little stickers they have – ‘I support the Sheriff’s Department.’ Get that, get that! You’re fine. It works. It’s the same thing, if I could say “I’m on your side” somehow on my car, but I’m not. I’m not. Those days, they’re over. They were done when I was in high school. Now that I’m a grown man, an adult, I distrust the police the way my father and my grandfather told me. But I would never project that. I talk to young men and they say this and I say ‘Come on man...’ I would never kind of disclose how I really feel, that would be unprofessional. If you could hear their stories, young men, black and Hispanic,

it's unbelievable. And they don't have a voice. I do. We have voices. [Some] Young men don't.

Similar to other narratives, Carlos points out that he was not easily swayed by family discussions about law enforcement, saying he '...completely reject[ed] it' as a young man. As with Hector, there is a discussion of how socioeconomic status is not protective of undue state interference ('...you cannot show your education on your car.'). His distrust of the police comes as a result of experience with law enforcement and is not merely an adoption of his family's view of the police. A community organizer who works with young Latino fathers, Carlos states that in respect for his position he makes a conscious effort not to impose his views of the state on the young people with whom he works.

Later, Carlos remarks on the consequences of the panopticon and its focus on communities of color.

He's a good kid...who got pulled over at the wrong time and just snaps -- he's branded as a juvenile or a trouble-maker. Or a cop doing this or that or whatever just because of that single act. That's it. He's branded for life. I mean the significance of that -- of racial profiling -- is just the fact that one incident can really affect a person for the rest of his life. Maybe not bringing it out in the open like we are but constantly day after day when you see that cop car. We don't see that's our friendly neighbor.

... It's almost like we've been given this fairy tale that cops are the good guys. The cop standing there, you know, helping old ladies -- whatever. This is reality. This is the way it really is. Sure, you may be educated, you may hear about it on TV, you may read about it but until you experience it -- you're like 'Oh shoot.' . . . That's the feeling you get in your gut. It's a loss of innocence. This is reality. This is the way your life is going to be. You're a Hispanic male -- get used to it.

Carlos reflects on the detrimental effects of the panopticon not only in its lingering and consistent effects but in how racial profiling processes act as potential entrée into the criminal justice system. He comments on how the role of the police

officer presented in society is vastly different than the role many people of color are subjected to in their everyday encounters. He continues this line of concern with another reference to the everydayness of racialization and criminalization processes and how racial profiling encounters with the state are watershed moments (“...a loss of innocence.) that men of color must get used to. Later, he refers to his experiences as “...like constantly being under a microscope.”

Jesse, a Latino in his early 20s with some college education, offers a unique analysis of his experiences with racial profiling. In the following excerpt, he is responding to my question about definitions and conceptions of the term racial profiling.

Racial profiling? What I think about is authority figures acting on stereotypes. It's funny sometimes we'll go out driving and I'll actually feel safer when there are White people in the car. I will actually feel like, ok pull me over, there's White people in the car. Now that I think about it, I've actually never been pulled over with a White person in the car. I didn't think about that until right now.

The narrative is informative because it provides the flip side of the panopticon experience. For Jesse, a White partner acts as a buffer between him and the state. There is an implied concern that not only is the likelihood of getting stopped lessened when a White person is in the vehicle but that even if there is a stop, it has less potential to end up badly. The panopticon effect – an awareness of state surveillance and the inherent power dynamic that accompanies it – is muted by the presence of the White partner. As he continues, Jesse connects racial profiling by the police to larger racist systems shaping society.

It's not just the police. It's also just society itself. For instance, when that lady drowned her two kids in the pool by locking them in her car and killed her two sons. What was she saying? A Black guy. Yeah, we just feed the whole

frenzy here. The runaway bride. She said a Mexican kidnapped her in a painter's van. That's what they do! You never quite hear of a minority kid that goes missing. You hear of white kids that go missing. It's not just the cops doing it. It's society. The only difference is that cops infringe on our rights. It's much easier for the cops to do it on an everyday basis.

K: Is it somehow different when the police infringe on your rights than when regular joe citizen infringes on your rights?

Yes it is definitely different. Oh my gosh, incredibly different! First off, the police are paid individuals to protect your rights. They are there to actually protect your rights. To help you in your case of need. Who are you supposed to turn to when the very people that are supposed to protect you then are infringing on them?

Jesse argues that police-minority relations are reflective of larger racialization and criminalization processes. The infringement of rights by the state via racial profiling processes is a key concern in his narrative. The contrast with the state's role in theory and how it operates in practice in communities of color is evident in his comment about the protectors of rights actually infringing on them. Ultimately, Jesse's connection of racial profiling processes to the larger social realm is at the crux of the current project – racial profiling is a manifestation of broader social, political, and legal realms that structure racial and ethnic experiences in the contemporary era.

Chapter Summation

The narratives in this chapter demonstrate the complexity of the vicarious experience in explaining 'perceptions' of being racially profiled. In this chapter, I attempted to contextualize Foucault's panopticon effect – the awareness of constant surveillance and power dynamics by the state – experienced by many people of color into the realm of vicarious experience as discussed in the current literature on racial profiling. I also frame the 'break from citizenship' that occurs with panopticonism processes of criminalization within DuBois's notion of double-consciousness: awareness

of the panopticon, that is, awareness of surveillance and a lack of both physical and mental freedom, reflects an awareness of a denial to full citizenship protections from the state. I also engaged what Russell (1998) and others refer to as “the lesson.” The “lesson,” again, is advice and admonitions passed down across generations among communities of color that offer wisdom on how to deal with a racial state. I argue that this theoretical approach – vicarious experience, panopticonism, double-consciousness, and ‘the lesson’ – is crucial to understanding why the racialized traffic stop is a much more socially divisive and harmful encounter than current literature on racial profiling suggests.

The panopticon theoretical framework provides the underlying rational for both vicarious experience and the related issues of collective memory and ‘the lesson.’ The racial state engages in hyper-surveillance of communities of color and in doing so, projects its capacity to dominate. These processes have a long racial history in America. Although eventual Constitutional protections against state intervention and related repression were presented ideologically as ‘justice and liberty for all,’ the practice of equal treatment under the law has never been fully carried out for communities of color at large. As discussed by Feagin (2006) and others, racial oppression is met with resistance. Resistance not only implies opposition to power dynamics but the development of coping strategies to withstand the everydayness of racial injustice. Hence, as evident in the preceding narratives, people of color developed a collective understanding of the social world. This understanding manifests through collective

memory and, more specifically here, to ‘the lessons’ that are passed down and circulated generationally as a means to negotiate the racial state.

I argue that while these processes may be considered in the indirect or vicarious experience realm that is a focus of the current racial profiling literature, these experiences are captured only superficially in the current literature’s treatment. When the current literature discusses the vicarious experience effect in perceptions of racial profiling, it does not do so in an in-depth manner and generally only provides “information from family and friends...” as a definition of vicarious experience. This characterization of vicarious experience, when combined with popular discourse that suggests minorities help keep notions of racial oppression alive in the contemporary era in part because they continue to discuss historical racial events collectively, severely limits the complexity of vicarious experiences.

In the remaining chapter, I review my analyses of the narratives of individuals who have experienced racial profiling. I summarily engage the theoretical frameworks described in Chapter II as they apply to the citizenship concerns of personal experiences with law enforcement in Chapter V and as they apply to panopticonism, vicarious experience, and ‘the lesson,’ as discussed in the current chapter.

CHAPTER VII

CONCLUSION

Every society is really governed by hidden laws, by unspoken but profound assumptions on the part of the people, and ours is no exception.

(James Baldwin 1961:11)

In this final chapter, I summarize the main points of the current study on racial profiling, discuss possible limitations with the work, and point to future directions in my research on racial profiling. The complexity of racial profiling processes explains why it is at the top of the research agenda in criminology. There is much work to be done. As discussed in Chapter I, I was compelled to examine racial profiling in large part because of the orientation of the body of work now available on racial profiling. My work is a response to the current state of affairs in the literature, and thus is offered as a critical-oriented analysis. The following conclusion addresses the criticisms I have proposed with the current literature and what efforts my work does to advance and perhaps complicate our current understanding of racial profiling.

Quantitative Insight

First, the vast majority of racial profiling research is survey-based (see Dunham, Alpert, Stroshine, and Bennett 2005; Tomaskovic-Devey, Mason, and Zingraff 2004; Tyler and Wakslak 2004; Weitzer and Tuch 2005). The quantitative work addresses several aspects of the racial profiling phenomenon, mainly the practice and distribution of profiling, the decision-making processes of law enforcement, and what makes individuals ‘perceive’ they are being racially profiled. The bulk of this work involves studies that concern the practice of racial profiling and that overwhelmingly demonstrate

minority motorists are disproportionately stopped by law enforcement when compared to population parameters and White motorist encounters with law enforcement (Withrow 2005). More recent research focuses on ‘perceptions’ of being racially profiled and generally conclude that two variables, personal experience and indirect or vicarious experience with the police, are determinant in whether one experiences a traffic stop as racialized. The current study primarily addresses this latter research.

A Qualitative Approach

‘Perception’ studies seeks to understand whether particular experiences with or attitudes toward the police explain why someone believes a traffic stop is race-based. These studies can demonstrate that a person who has had previous personal experience with the police, particularly a negative encounter, are more likely than those who haven’t to view a traffic stop as racial profiling. Yet, because these studies are largely based upon survey data, the “perspective of the citizen” that one study argues is crucial to understanding racial profiling (Reitzel, Rice, and Piquero 2004), is quite limited. A qualitative account of these personal experiences with the police and the associated meanings and contextualizations that people of color are able to offer about their lived experiences seems necessary to getting at the “perspective” scholars maintain is a valuable component of our understanding of racial profiling. Thus, the current study engaged in in-depth interviews with people of color to uncover the meanings they attach to encounters with the state. This approach goes to what it is *about* the encounter specifically, not simply that there was an encounter (possibly a negative one), to better understand why the ‘personal experience’ is so relevant in racial profiling processes.

Citizenship and Shadow Citizenship

What emerged from my interviews about the meaning of the stop was an issue not discussed to any length in the current literature. *Citizenship* dominated my respondents narratives on what precisely concerned them about the racialized traffic encounter with the state. While the body of scholarship now available is ultimately bounded by the specific incident of the traffic stop and consequently orients analyses to the police-minority relationship, my analysis shows that people of color experience the racialized traffic stop in much broader terms. The scope of the racialization and criminalization extends to the very notions of citizenship and justice, and racialized encounters with the state are considered watershed moments in their lives. To contextualize this break from citizenship theme, I engaged Foucault's (1977) panopticonism and DuBois's (1986) concept of double-consciousness. Specifically, panopticonism was useful because it concerned the hyper-surveillance and "permanent visibility" that many people of color experience under the watchful eye of the state. This omnipresent mechanism of social control limits what one of my respondents referred to as 'mental freedom,' and thus denies full citizenship rights to those who experience it.

Similarly, DuBois's work argues that people of color have an awareness of the duality of their racial status and their identity as a (shadow) citizen, and are ultimately some of the greatest defenders of the justice and liberty frame even when denied full citizenship. More generally, the experiential nature of the encounters and their regularity (the *everyday* quality) is elucidated by Feagin's (2006) general theory of systemic racism. These theoretical devices allowed me to examine racial profiling as a

fundamental component of racial oppression, rather than as a somewhat contained and even mundane and benign social process that is generally discussed in the ‘racial vacuum’ of the current literature.

Resistance to Shadow Citizenship

Another as yet unexamined aspect of racial profiling processes that is evident in the current study is the resistance that emerges in response to racial profiling. While DuBois and Feagin in particular point to issues of resistance in their work, I primarily engaged Collins’s work on resistance from *Black Feminist Thought* (2000). I chose her work because it is concerned with rejecting ‘controlling’ identities and my analysis shows that many of my respondents cast off the criminal identity that was imposed upon them by the state via the traffic stop. Respondents spoke of both direct and indirect forms of resistance, with the former including filing formal complaints in response to an undue stop, and the latter incorporating simple critical awareness or *consciousness* of the injustice. Collins’s work, as well as others, recognizes both formal and informal modes of resistance as crucial to fighting oppression (see, for example, Scott 1987).

‘Perception’ Studies

The next point concerns the notion of ‘perception.’ Ironically, for a long time, as communities of color voiced opposition to race-based policing, efforts to examine the motivations behind policing practices were disregarded precisely for the reason that researchers could not ‘get into the head’ of the police officers engaging in potentially racist behavior. Yet the current ‘perception’ studies attempt to do just that with the citizens involved in these encounters. The current study takes as its premise that race-

based policing occurs with some regularity in communities of color. Much of this assumption is based on the wealth of data we now possess about the racial ordering of American society on every level of social well-being, and that the criminal justice system would necessarily be an anomaly if it too was not shaped by white supremacy (Feagin 2001). This is in line with Feagin's (2006) theoretical framework of systemic racism that orients the current work, particularly the 'experiential' emphasis of the theory concerned with the *everydayness* of racial oppression. My stance is in contrast to what I argue is an underlying discourse with the 'perception' studies. In other racial realms, minority experiences are discounted and diminished, and indeed the voices of communities of color have long been historically silenced in various social arenas, including in the academy. As stated by Torres in *Chicana Without Apology* (2003:82) when discussing student reactions to her political stances in the classroom, "...if they can dismiss me, they can dismiss my concerns." Because, I argue, 'perception' studies suggest an 'it's all in your head' framework to understand racial profiling, the important experiences and resulting narratives contained in the works of Bolton and Feagin (2004) and Moore (forthcoming), for example, would be diminished if a similar 'perception' orientation guided their work. On the contrary, because these scholars take a critical approach to examinations of racial oppression, they center and thus validate the voices of their respondents.

Double-Consciousness Insight

In this regard, the current study finds that the racialized traffic stop is deeply contextualized within a well-developed base of knowledge about how race operates in

the United States. This goes to the DuBoisian (1986) perspective that people of color possess insight into the inner workings of the social world – they know the “souls of white folks” to a greater extent than Whites understand the experiences of people of color. My respondents indicate that they assess their encounters with the state by comparing similarly-situated conditions with Whites or through a process of elimination that racial status is the motivating factor in their being stopped, among other things. Indeed, many, though not all, respondents articulated initial reluctance to view a traffic stop (and the criminal justice system generally) as *raced*, having adopted and *believed in* much of the liberty and justice frame that orients our national, and specifically criminal justice, discourse. Thus, the ‘perception’ orientation of the current literature neglects the agency and deep understanding of racial dynamics that people of color possess in the era of color-blind racism.

Vicarious Experience Revisited

This leads to another point of counter with the current research: the vicarious experience variable. Though engaged in other criminology-specific areas such as violence studies, indirect or vicarious experience is a mainstay of the current racial profiling literature. Alongside the personal experience variable, vicarious experience (‘imagined participation’) is examined to explain why someone views a traffic encounter as racialized. From a critical perspective that examines the discourse of our scholarship on racial profiling, I argue that the vicarious experience focus is another discursive mechanism that serves to diminish the experiences of people of color. An underlying connotation found in the literature is that a person of color may not have personally

experienced injustice by the state but likely has heard, from other people of color, about a generalized injustice of his or her community. Consequently, the incidence of injustice may become “amplified” to a “...whole network” of people, as leading scholars have written (Weitzer and Tuch 2006:19). I argue that from this view, the scattering of information among communities of color may then be seen as ‘perpetuating’ racism among the communities themselves, a variation on the claim by some Whites that if Blacks quit talking about slavery, their lot would somehow improve (see Bonilla-Silva 2003). As one of my respondents noted, however, “...if you don’t talk about the rain, the rain is still gonna come down.”

To this end, I examined the vicarious experience in regards to panopticonism and double-consciousness, as well as with the concept of ‘the lesson.’ In Chapter VI, panopticonism served to underscore the salience of the racial state in the lives of people of color and provided background for the very purposeful informational exchange process of ‘the lesson.’ More specifically, I presented the case that because the panoptic experience is a reality for many people of color, the authenticity of ‘vicarious’ experiences must be more complex than the current state of affairs suggests. I contextualized Russell’s (1998) notion of “the lesson” with the vicarious experience to better understand the phenomenon. The narratives of my respondents’ showed that the storytelling inherent to the vicarious experience is very purposeful and meaningful communication. Rarely were there any indications that this informational exchange was meant to damage relations with the state. These ‘lessons’ were strategic and historically and contemporarily essential mechanisms of survival circulated in the communities as a

negotiation of the racial state. Indeed, as I note in Chapter VI, these lessons would unlikely remain relevant in the post-Civil Rights era if the practices of the state did not continue to racialize and criminalize communities of color. DuBois's double-consciousness was also applicable in this discussion as it is concerned with the reconciliation of identity, in the face of racial oppression.

Bringing in Race Theory

A final overriding point of dispute with the current literature is its general lack of a theoretical base. Recent developments in the literature have addressed this point (Engel, Shepard, Calnon, Bernard 2002; Weitzer and Tuch 2006). More specifically, there is a void of race theory to orient these studies that obviously call for theoretical grounding in race studies (for a recent exception, see Wilson, Dunham, and Alpert 2004). To address this deficiency in the literature, in addition to the theoretical groundings discussed above, I also orient this study with a critical race theory perspective. As discussed in Chapter IV, critical race theory is concerned with centering race into the research design. The orientation of critical race theory also explains the criticism-heavy approach of the current study because the perspective is meant to uncover hidden and not-so-hidden suppositions forwarded by dominant group scholars about communities of color. By engaging the critical perspective, I argue I have situated the racial profiling experiences of people of color in a more authentic framework than the mainstream scholarship allows, precisely because the current scholarship is relatively void of serious consideration of racial oppression.

Legal Consciousness

A final theoretical guide to the current work comes from Marshall and Barclay's work on legal consciousness, or how people make sense – on an *everyday* level – of the legal realm (2003). Although I address this theoretical perspective briefly, it is relevant on a main point that coincides to an extent with DuBois because the authors posit the ordinary citizen as “legal actors” who must regularly make sense of their position in the legal realm and organize their daily rounds with various legal *distinctions* in mind. My respondents clearly articulate the criteria for citizenship and its legal rights and protections, even though these expectations of citizenship are not fully realized. Their legal consciousness also suggests, for the most part, that they see the legal realm as both a place of coercion and oppressive power by the state, as well as a place of remedy for the social harms they experience – this notion of what “the law should be” (Marshall and Barclay 2003:624).

Limitations of the Current Study

I now briefly address limitations of the study. As mentioned in Chapter I, because the current study is unique to the literature, there is no substantive body of work to directly contextualize it within. Earlier I also commented on the relatively small numbers of respondents in the current study, which some readers may find limiting to the validity of the current work. I remain confident that this work is fully about the *meaning* of racializing and criminalizing processes in the criminal justice system, and while I recognize that a larger sample would permit more extensive analysis, the respondents in the current study provide a wealth of information on these processes that

stand on their own. Another concern is that perhaps the ‘distinctive’ character of the south where the interviews occurred may color the findings. Although the south may have a greater reputation for racial oppression than the American north, the north has experienced and continues to experience racial oppression today. As well, these distinctions may be a matter of degree. A final limitation involves issues with the lack of ‘race-matching’ during my interview gathering process. Some readers may question whether a White female can gain access and develop rapport with people of color, particularly males, on such a sensitive topic. Identity barriers come in a range of ‘colors’ and dimensions, and shared demographic status is no guarantee of accuracy (Twine and Warren 2000). Ultimately, I believe this work is an authentic rendering of the experiences they generously shared with me.

Further Research – Policy Implications

As this conclusion chapter suggests, the opportunity for further research on racial profiling is immense because of the complexities of the issue – it reaches into macrolevel jurisdictions of the legal and political realms as well as into the more personal aspects of the everyday lives of people of color. Racial profiling is of great interest to me as a scholar as I see it encompassing three distinct realms of possible research. The first realm is the area of the current study. Racial profiling in this regard is often connected to the issue of ‘street crime,’ particularly drug intervention following the ‘war on drugs’ initiatives in the 1980s. It is very much a part of the African American experience. The second realm takes on another dimension in the current climate of anti-immigration sentiment. It concerns racial profiling of primarily Latino

individuals and encompasses both issues of criminality in regards to drug trafficking and ‘criminality’ in regards to undocumented status. The third dimension, post- September 11, necessarily involves individuals of Middle Eastern origin where the racial profiling is tied to terrorism. All three components, of course, are dependent on social constructions of identity and criminality. In relation to all of these, a future priority research project for me involves examination of the 1996 U.S. Supreme Court *Whren* decision. Its Constitutional protection of the pretextual traffic stop is highly relevant to racial profiling processes as it allows an officer who does not have ‘probable cause,’ nor who can articulate ‘reasonable suspicion,’ of a motorist (two earlier doctrines in place to make a legal traffic stop) to legally make a stop under ‘pretext.’ Though this practice has a long racial history, it is now Constitutionally sanctioned. The decision reflects a major public policy concern for racial profiling issues. As discussed in Chapter I, the ‘first wave’ of research on racial profiling resulted in a series of legislative initiatives to both collect data on the phenomenon and to prohibit its practice (though other federal legislative efforts, particularly those forwarded by Congressman John Conyers, suffered defeat at many points over the past decade before finally reaching some success in the last couple of years). The public policy concern centers on the compartmentalization of the (now legal) pretextual traffic stop from the now well-documented incidents of minority overrepresentation in traffic stops. In other words, the current data show a racialized pattern to traffic stops (potential entrée into the criminal justice system), yet the *Whren* decision operates as if racial status was not a primary organizer of the contemporary social landscape. Motorists who rely on the post-first wave of research

legislation to make a legal claim of racial profiling will be thwarted in their efforts because of the vast police discretion permitted under *Whren*. Perhaps the current intersection of legislation both prohibiting racial profiling and allowing pretextual stops may alert the public to the complexities of the issue. Briefly, another potential research project involves how racial profiling experiences fit into the ‘life course’ framework forwarded by Sampson and Laub (1990), among others. This connection is particularly interesting given Pettit and Western’s (2004) articulation that incarceration (of which racial profiling is a potential precursor to) has emerged as a new development in the life course for young Black men.

In Conclusion

Racial profiling is the result of being exposed to panoptic practices of constant surveillance and criminalization that is the nature of our racial state. The ‘shadow citizen’ realm that exists in the post-Civil Rights era has fewer formal social controls than in DuBois’s time yet his notion of double-consciousness is ever present in the narratives comprising the current study. The duality of being both a person of color and a full citizen and the resistance that arises in opposition to the White-directed dichotomization of the minoritized body and the citizen, is still evident today. Foucault considered significant the move from a society concerned with social control of ‘the body’ to one concerned with ‘the mind/soul’ in part because he believed more ‘social harm’ occurred with the latter. Racial profiling has its foot in both realms, and as such, is a phenomenon in American society that maintains the physical isolation of the ‘out of

place' doctrine and the physicality of detention as well as the *mindful* alienation that emerges with a break from citizenship.

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APPENDIX

RACIAL PROFILING – INTERVIEW SCHEDULE DRAFT

Have you heard the term racial profiling?

What does that mean to you?

When you think about mistreatment by the police, what kinds of things come up?

Have you ever experienced any mistreatment by the police?

If so, what happened? (ask about what they were doing, interactions with police, demographics of officer, insulting language, force or threat of force, ticketed/searched, attitude, spatial issues, type of car, etc.)

Do you think you've ever been racially profiled or mistreated by the police?

If so, what happened? (ask about what they were doing, interactions with police, demographics of officer, insulting language, force or threat of force, ticketed/searched, attitude, spatial issues, type of car, etc.)

What makes you think race was involved?

Why did the officer say they were stopping you?

What did you think about this?

Some people say that it makes sense that the police pay more attention to blacks and Latinos because they make up the majority of people in prison. What do you think of this argument or way of thinking?

What about the majority of blacks and Latinos who are not involved in any crime. Are they affected by racial profiling?

Do you think racial profiling happens often?

What makes you think so?

What kinds of things do you think about after you've had an experience with the police?
How do you feel?

How do you cope with these feelings?

How do you think this kind of experience influences your attitudes towards the police in general?

Research shows that blacks and Latinos are more disapproving of the police than whites. Why do you think this is so?

Now if we could talk a little about how you feel the police treat people in general. Do you think blacks or Latinos in your neighborhood are treated fairly by the police compared to how whites are treated? Please give me an example if you can.

Why do you think happens?

Has anyone you know – friends or family – been racially profiled or mistreated by the police?

What happened?

How did you find out about it?

Do you and your friends and family ever talk about how the police treat you?

What kinds of things do you talk about?

Do you discuss how to “act” around the police?

If so, what types of things do you do differently?

Now we’re going to talk a little about the neighborhood that you live in now. How do you describe the neighborhood?

Do you feel pretty safe here during the day?

How about at night – do you feel safe?

Do you feel like the police in your neighborhood take care of things?

Can you give me an example?

What about other areas of town that you go to?

Are there any areas of town where you feel like the police act differently to you than they do in your neighborhood?

If so, how do they act?

How does it make you feel?

How do you feel about the police in those places?

Do you feel like you trust the police in your neighborhood?

What does trust mean to you?

What about the police in general?

Say there was a problem with the police in your neighborhood. Do you feel like you could do something about the problem?

Why?

The next thing we could talk about is the media. There are a lot of TV shows about the police, the courts, etc. What do you think about these shows?

Some people say these shows pretty much show how things are with the police but others say these shows exaggerate things between the police and the people they deal with. What do you think?

Some people say TV and newspapers have a lot to do with how much we like the police. What do you think?

Have you ever wondered how the police make decisions about who to stop, say if there are a bunch of people speeding down the highway?

What do you think the police base most of their decisions on in these cases? (neutrality, objectivity, consistency)

Some people, when they're asked about whether they think the police have stopped them because they are black or Latino, say sometimes it depends on whether the officer showed enough respect and fairness during the stop. What do you think about this?

In your experience, how does an officer show respect and fairness? Please give me an example if you can.

Finally, I was wondering what you think of this research that I'm doing and if you have any comments or questions to ask me.

VITA

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Peer Reviewed Publications (selected)

“‘We Are All Americans:’ The Latin Americanization of Race Relations in the United States” Eduardo Bonilla-Silva and Karen S. Glover. 2004. *The Changing Terrain of Race and Ethnicity*, edited by Maria Krysan and Amanda E. Lewis. Russell Sage. New York.

“Too Many Males: Marriage Market Implications of Gender Imbalances in China.” Dudley L. Poston, Jr. and Karen S. Glover. 2005. *Genus*. LXI. No. 2:119-140.

Works Accepted (selected)

“Police Discourse on Racial Profiling.” in *Journal of Contemporary Criminal Justice*. Karen S. Glover. Forthcoming August 2007.